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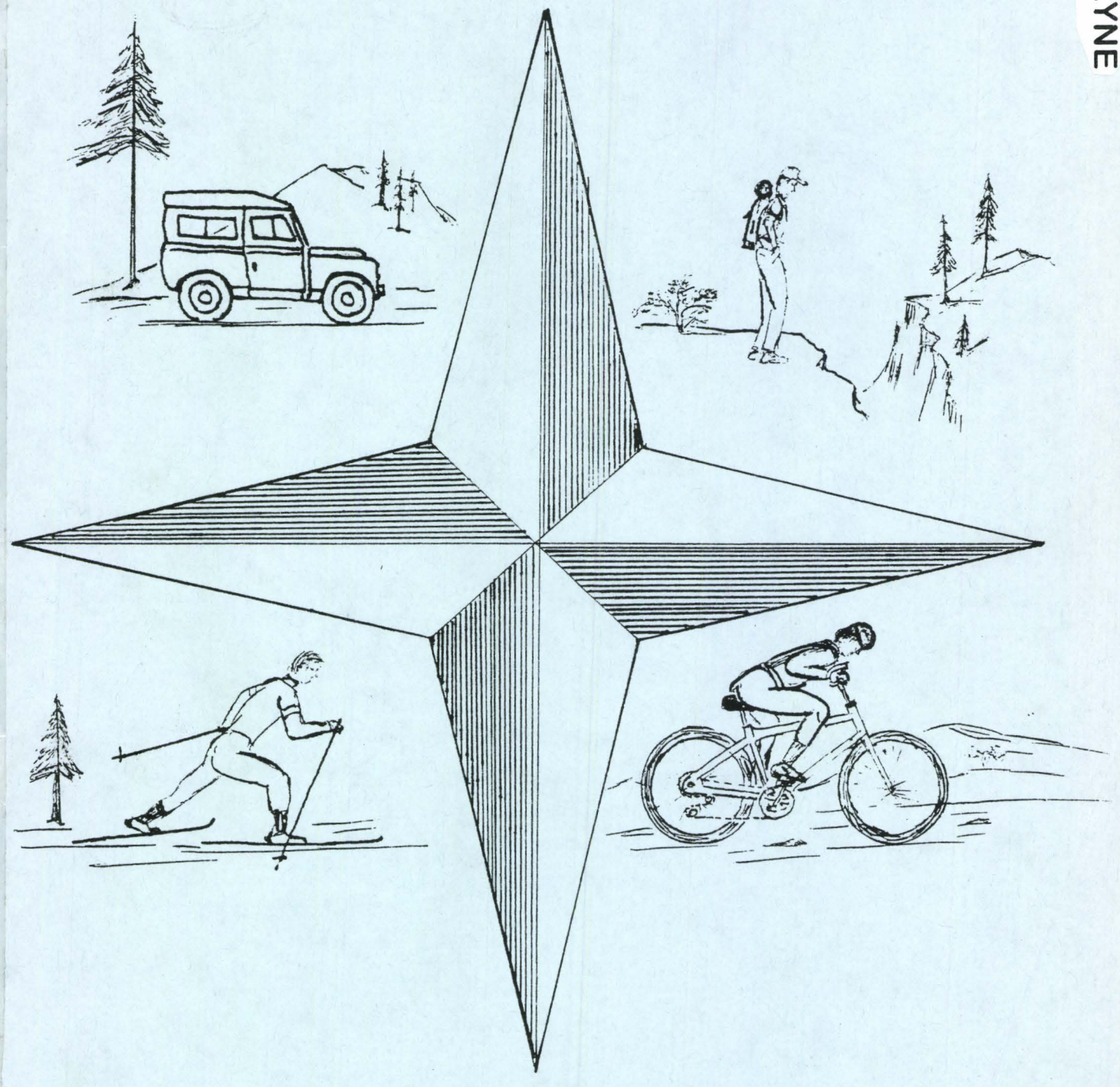

LEGAL ACCESS TO

RECREATION OPPORTUNITIES ON THE STANISLAUS NATIONAL FOREST

JAYNE M. MONTOYA

Realty Specialist

Stanislaus National Forest

19777 Greenley Road

Sonora, CA 95370

Clemson Class of 1989

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ABSTRACT

AUTHOR: Jayne M. Montoya
Realty Specialist
Stanislaus National Forest
19777 Greenley Road
Sonora, CA 95370
(209) 532-3671

TITLE: Legal Access to Recreation Opportunities on the Stanislaus National Forest

ABSTRACT: This project develops a Stanislaus National Forest Recreation Road and Trail Right-of-Way Acquisition Plan. This plan will be implemented on an annual basis along with the Forest Timber Right-of-Way Acquisition Plan over the next 10 - 20 year period. The proposed Recreation Right-of-Way Plan has been coordinated with the proposed Forest Land and Resource Management Plan, the proposed Forest Interim Off-Highway Vehicle Plan, and the Forest Trails Plan. This paper also addresses a number of key issues involved in the right-of-way acquisition process. Those issues include negotiations with private landowners, liability, partnerships, and funding.

KEYWORDS: Access, Easements, Roads, Trails, Partnerships, Liability, California, Stanislaus National Forest, Right-of-Way, Recreation, Off-Highway Vehicle.

EXECUTIVE SUMMARY

As the Realty Specialist on the Stanislaus National Forest, I am involved in acquisition of rights-of-way on the Forest. Annually, the Forest Staff reviews right-of-way needs and drafts a Forest Right-of-Way Acquisition Plan.

Historically, the Stanislaus Right-of-Way Acquisition Plan has been driven by the Forest Timber Sale Program and access needs for that program. Now and then some thought has been given to recreational type rights-of-way that are needed, but little priority has been placed on these needs.

My goal in this paper is to look at the Stanislaus National Forest right-of-way needs from a recreation perspective. I would like to identify the various user groups and what easements are needed to provide legal access for those users and the general public. I want to discuss the importance of legal access being provided for the public and what incentives are available for dealing with private property owners.

My ultimate goal is to develop a Recreation Road and Trail Right-of-Way Acquisition Plan for the Forest and prioritize those needs so that annually the Forest can begin to accomplish a minimum of two Recreation rights-of-way.

INTRODUCTION

The Stanislaus National Forest is located on the western slopes of the Sierra Nevada Foothills. The Forest is within one hour of the San Joaquin Valley towns of Modesto and Stockton, two hours from Sacramento, and three hours from the San Francisco Bay Area. The Stanislaus encompasses 898,902 acres of federal land and 191,137 acres of private ownership adjacent to or intermingled within national forest lands. The large number of private "inholdings" contributes to the need for rights-of-way.

The Supervisor's Office is located in Sonora, California. The Sonora vicinity has a population of approximately 40,000 people and jobs are dependent on tourism, recreation, logging, and light industry. District Offices are located in the small towns of Buck Meadows, Pinecrest, Mi-Wuk Village, and Hathaway Pines.

The Stanislaus National Forest receives over two million recreation visitor days of use each year. The Forest offers a wide variety of recreation activities, both motorized and non-motorized. Major attractions include Dodge Ridge and Mt. Reba Ski Areas; the Tuolumne Wild and Scenic River; the Carson Iceberg, Emigrant, and Mokelumne Wilderness areas; a number of scenic recreation lakes and popular use areas; and both developed and dispersed camping areas.

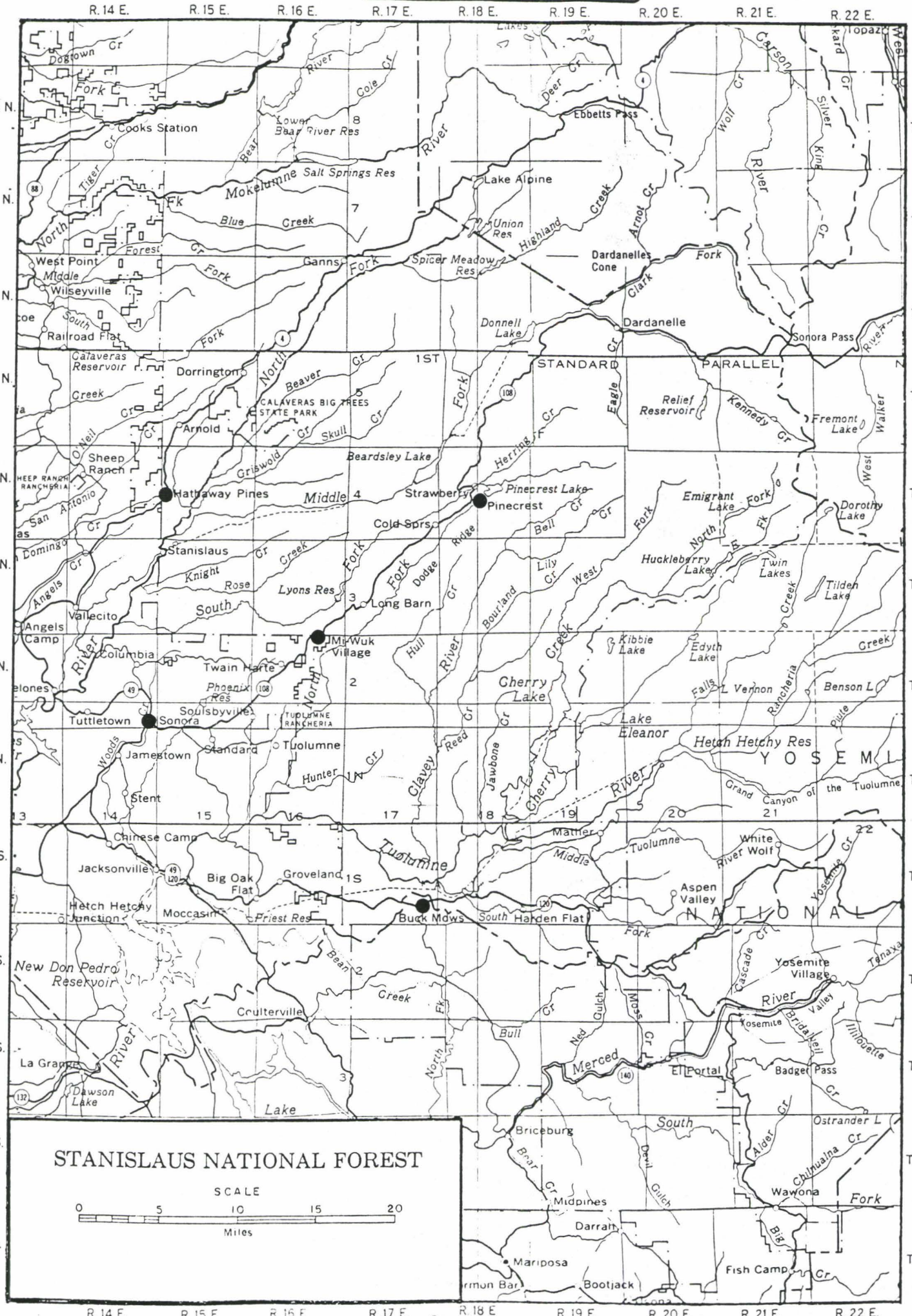
The Stanislaus will become an "urbanized" National Forest very soon, with Sonora growing as well as the growth in the San Joaquin Valley (Modesto, Stockton, Tracy as bedroom communities for Bay Area). The following Locational Map illustrates the location of Sonora to the San Joaquin Valley, Sacramento, and San Francisco. The Vicinity Map shows the location of the Supervisor's Office in Sonora and District Offices located in Mi-Wuk Village, Pinecrest, Buck Meadows, and Hathaway Pines.

In order to provide access to a variety of recreation opportunities, it is none too soon for the Forest to review rights-of-way needed in order to provide legal access to National Forest System lands.

The objectives of this field project are to inventory the recreation rights-of-way that are needed, address a number of key issues related to the right-of-way acquisition process, and review available funding opportunities.

LOCATIONAL MAP

Vicinity Map



METHODOLOGY

LITERATURE SEARCH

A literature search reviewed the overall question of access to federal lands, the Stanislaus National Forest road and trail transportation system, the importance of road access, and liability concerns of private property owners. A review of the Forest Status Atlas, Right-of-Way Atlas, and county road records for Tuolumne, Mariposa, and Calaveras Counties was also completed.

Personal interviews were conducted with various Forest Staff Officers to sense what the current and future needs were for public access to National Forest lands. Many of the Staff have been on this forest for a number of years and have made contact with many recreation visitors.

Notes from the Clemson University Shortcourse were referred to for overall direction for the project.

Reference will also be made to the Stanislaus National Forest Proposed Land and Resource Management Plan (draft form), the proposed Interim Off-Highway Vehicle Plan, the Forest Trails Plan, and the Forest Service Manual.

A recent report completed by the Keystone Center, "The Keystone Center Dialogue on Access to Federal Lands - Final Report", (March 1989), will also be referenced often throughout this document. This report was done at the request of the Forest Service and Bureau of Land Management. On a national perspective, the focus of the Keystone Dialogue is on the issue of providing appropriate public access across private lands.

RECREATION ON NATIONAL FOREST LANDS

The United States contains an abundance of diverse public lands in federal ownership. The majority are managed by the Forest Service and Bureau of Land Management. These public lands constitute one-third of the surface area of the nation. Demographic, economic, and social trends indicate that the demand for the use of public land and water resources is continuing to increase rapidly. More people are pursuing a wider range of activities on these lands than they have in the past.

In 1905, federally managed "Forest Reserves" were transferred from the U.S. Department of the Interior to the Department of Agriculture and the Bureau of Forestry became the Forest Service. The primary management focus was on soil, water and timber. The Forest Service didn't consider itself to be a recreation provider, although the first survey of recreation was completed in 1917 (by Henry Waugh), and the first appropriation for recreation of $10,000.00 occurred in 1922. Also significant in the history of recreation on national forest lands are the 1960 Multiple-Use Sustained Yield Act, 1964 Land and Water Conservation Fund Act, and the 1976 National Forest Management Act.

The Chronological Graph shown in Exhibit A illustrates additional acts, laws, and significant events that affected the history of recreation use on national forest lands.

As stated by Dick Costley, former Director of Recreation Management for the Forest Service, "Recreation came in the back door of the Forest Service. The agency was forced to deal with people recreating, and was mainly protecting the resource from fire and encroachment."

The majority of studies are indicating that the demand for use of national forest lands will only increase as a growing population needs to find places to recreate, especially in a highly populated state like California.

Recreation trends were addressed at the 1985 National Outdoor Recreation Trends Symposium (What The Trends Tell Us, 1986, Pages 45-47). Types of trends addressed included social, activity, economic, tourism, and legislative policy.

Social trends indicate that the "baby boomers" are now middle aged, have two incomes, more leisure time, have delayed starting families, and may have more money and desire to recreate. Increased participation is expected in activities such as bicycling, downhill and cross-country skiing, snowmobiling, camping, rafting, and hiking. A leveling trend is expected in fishing, swimming, off-highway vehicle use, golf, tennis, jogging, picnicking, and driving for pleasure. High adventure recreation activities like white water rafting, rock climbing, and helicopter skiing are on the increase. These types of activities may force both public and private sectors to view risk management differently.

Economic trends indicate the expenditures for recreation have climbed steadily over the past 20 years. Unfortunately, funding has not kept up, so we may see Congress looking to broaden the fee authorizations in federal areas.

Travel and tourism trends indicate that people are taking more "mini vacations" over long weekends and staying closer to home. This would indicate that an area like the Stanislaus that is close to the San Francisco Bay area and Sacramento urban areas will continue to see an increase in recreation use in the next 20 - 30 years.

Recreational trends in the private sector were also reviewed, since the availability of recreation opportunities on private land will affect the recreation demands on public lands. This subject will be addressed in more detail later in this paper when the subject of private property owners, negotiations, and liability are addressed. The Forest Service, as a provider of recreation, shares many of the same concerns as private property owners.

Paul Barker, Regional Forester in Region 5, State of California, addressed the subject of recreation in his February 8, 1990 speech for a news conference. He stated the following about future recreation development: "National Forests already provide a major portion of the wildland recreation available in California, including cross country and downhill skiing, campgrounds and picnic areas, hiking trails, scenic byways and scenic getaways, National Recreation Areas like Shasta Lake, National Scenic Areas like Mono Lake, and countless other recreation opportunities for people. Preserved areas, such as wilderness, offer hiking and backpacking in an undeveloped setting.

In the coming decade, recreation will receive increased emphasis. The President's FY'91 budget proposes a 28 percent increase in the Forest Service recreation budget. The national forests in California have more recreation use than in any other region, and will continue to provide places for skiing, camping, picnicking, hiking and a wide variety of other recreational activities."

HISTORY OF ROAD AND TRAIL ACCESS ON THE STANISLAUS

The invention of the automobile in the early 1900's and its subsequent improvement provided many Americans access to previously hard-to-reach forest lands. Recreation use of generally undeveloped areas is one of the fastest growing forms of outdoor recreation in the United States. This type of recreation accounted for nearly two-thirds of all recreation use in National Forests in fiscal year 1982 with much of this use occurring on or along the more than 245,000 miles of National Forest roads and trails. Trails and roads are also recreation facilities that provide recreation opportunities. Off-Highway vehicles use roads and trails to enjoy off-road activities. Similarily, hikers, walkers, equestrians, and mountain bikers use trails and roads to engage in their activities.

The forest transportation system is fundamental to the management, protection and use of National Forests. By law, roads and trails are developed and managed in the national forest system for multiple uses. This means that the forests produce a variety of resources--water, fish and wildlife habitats, outdoor recreation, timber, energy and mineral development, wilderness, and forage for livestock, to name some of the more major ones.

So the primary purpose of forest transportation in the National Forests is to provide access to the resource--whether that resource is a wondrous vista, a campground, a picnic area, a wilderness, or timber for building homes. To use and enjoy the resources available on a National Forest, the public needs appropriate access to them.

Just as important, roads are needed to protect forests from wildfires, or from infestation of insects and diseases. Often, a road built for one purpose, such as harvesting timber, is used to provide recreation access, to improve habitat for wildlife, or to allow movement of firefighters and equipment in areas threatened by fire.

The Stanislaus National Forest has 2,640 miles of roads and 480 miles of trails. Many of the roads have been built over the years for use of hauling timber from forest lands. These roads also provide good access to various recreation areas. Most rights-of-way acquired for a timber sale have also provided the public legal access across private lands. This has been done intentionally since the agency has a multiple use type management.

For several decades, the Forest Service has had authority to acquire access across private lands, and Section 205 of the Federal Land Policy and Management Act of 1976 (FLPMA) provides the current authority and guidelines. It authorizes the Secretary of Agriculture to acquire access over non-national forest system lands by purchase, exchange, donation, or exercise of the right of eminent domain (condemnation). The Federal Aid Highway Act of 1962 authorizes appropriations of public lands and development of roads and trails. Both the Wild and Scenic Rivers Act of 1968 and the National Trails System Act of 1968 provide authority to acquire easements for public access to wild and scenic rivers.

As stated in the proposed Forest Land and Resource Management Plan, the three basic objectives of the forest development road system right-of-way program are:

1. Acquire rights-of-way across non-national forest system land, road and trail rights-of-way that are adequate for the protection, administration, and use of the national forests.
2. Acquire such rights-of-way in time to meet road and trail construction and resource development program schedules.
3. Acquire sufficient interests to permit use of roads and trails to meet the multiple-use and sustained-yield objectives of the National Forests.

The following policies are also stated in the proposed Forest Plan and the Forest Service Manual and are intended to guide accomplishment of these objectives on roads in the forest development road system:

1. Acquire sufficient interests for planned and foreseeable-future uses during the initial acquisition.
2. Acquire rights-of-way in perpetuity and to accommodate all forms of multiple-use traffic, unless the National Forest Land and Resource Management Plan (Forest Plan) indicates that full use is not required.
3. Recommend condemnation when negotiations fail to secure, in a timely manner, the rights-of-way needed.
4. Insofar as it is compatible with National Forest management objectives, assist and cooperate with private landowners in the acquisition of rights-of-way needed to develop access for private lands in conjunction with National Forest access.
5. Acquire rights-of-way with the least impact on private lands if it is economically feasible.

In addition to the policies stated above, the Forest Service Manual also lists the following two policies:

1. Acquire sufficient interests in rights-of-way for roads expected to receive significant non-Forest Service use to permit the appropriate public road agency to accept jurisdiction of the road.
2. Consider acceptance of temporary agreements or use rental arrangements only where there is an immediate need for temporary access for limited purposes that can be economically met by such procedure, and the foreseeable need of the United States does not justify the expenditure necessary to provide a permanent road or trail.

A concept often encountered in right-of-way management is that of "prescriptive rights" (rights established through use). The laws affecting the application of prescriptive rights-of-way vary by state. Generally, they require court action to prove prescriptive rights. Experience has indicated that such court actions are expensive and yield uncertain results. The United States Forest Service cannot acquire prescriptive rights-of-way because we are obligated by law to pay just compensation for any takings.

In a few Forest Service regions the predominate landowners within a National Forest boundary are the federal government and large timber companies. In these situations, cost-share agreements provide another option for road and right-of-way management. The Forest Service and the intermingled landowner(s) enter into agreements specifying cooperative arrangements for rights-of-way, road construction, and maintenance of roads.

The Stanislaus currently has four Cost Share Agreement Areas. One large area in the northwest part of the Forest is between Georgia-Pacific Corporation and the Forest Service. The other three are between Fibre-board Corporation and the Forest Service. The location of these agreement areas is shown on Exhibit F.

In the 1970's, the Washington Office granted permission to Forests to both acquire and grant "limited" easements. Conditions were attached to this authority so that Forests would not abuse the privilege. Basically, a "limited" easement does *not* include public use of the road. It only allows legal use of the road for forest administrative use such as hauling timber and forest products and use of the road by contractors. permittees, and Forest employees administering the land. The Forest Service now has the ability to limit public access on National Forest lands by granting a cooperator a Limited U.S. Department of Agriculture Easement. From a recreation perspective, this type of easement should be considered very carefully because the agency may be limiting public access to national forest lands.

Currently, an Interdisciplinary Team is drafting a Road Management Plan for Calaveras District (located in Hathaway Pines, CA.). This district has the majority of problems with public access. The road plan will help coordinate district right-of-way needs from both a timber and recreation perspective.

A number of road easements that are included on the Forest Recreation Right-of-Way Plan are roads which currently have limited rights, but actually need *public* access in order to meet current and future recreation demands. Limited rights were both acquired across private land and granted across Forest Service land.

Fortunately, this situation is limited to only one small area of the Calaveras District and involves only one Cooperator (Georgia Pacific Corporation). If public rights cannot be obtained through friendly negotiations, the Forest Service can condemn to obtain the additional public rights.

It is my observation that today there is a heightened awareness level on the Stanislaus Forest about the need for public access for recreation purposes. This project is a direct outgrowth of a stronger awareness and commitment to the importance of public access to public domain lands.

It is important that various departments within the Stanislaus Forest Service work together in management of the forest transportation system. Public involvement is also important in decisions that are made about roads and trails. Not every acre of National Forest has to be accessible to the public, but consideration of the public and their future needs must be taken into account in the decisions that are made. Roads and trails are an integral part of the forest recreation program.

RECREATION OPPORTUNITY SPECTRUM

As stated earlier, we in the United States have a rich supply of natural resources. As our population has increased, so has the demand on natural resources. In addition to the old demands for timber production, water development, and hiking, we are now seeing new demands from the American public. There is a more recent interest in mountain biking trails, wilderness areas, and cross-country skiing.

Managing for recreation requires different kinds of data and management concepts than most other activities. While recreation must have a physical base of land and water, the product - recreation experience - is a personal or social phenomenon. Although the management is resource based, the actual recreational activities are a result of people, their perceptions, wants, and behavior.

The word opportunity is defined as a "combination of circumstances favorable for a purpose." The purpose or goal of a recreationist is to realize satisfying experiences. This is done by participating in preferred activities in preferred environmental settings. (Department of Agriculture, Forest Service, 1986 ROS Book, Page II-29).

While the goal of the recreationist is to obtain satisfying experiences, the goal of the recreation resource manager becomes one of providing the opportunities for obtaining these experiences. The three principal components are the activities, the setting, and the experience.

A continuum called the Recreation Opportunity Spectrum (ROS) illustrates how the three components described above and the six major recreation classes fit together. The spectrum of recreation opportunities is divided into six major classes: urban (U), rural (R), roaded natural (RN), semi-primitive motorized (SPM), semi-primitive non-motorized (SPNM), and primitive (P). Table 1 on page 20 illustrates the ROS framework.

Table 2 is an ROS Setting Characterization and ROS Experience Characterization. Table 3 ROS Activity illustrates an ROS Activity Characterization. These are examples of recreation opportunities that may currently exist or may be provided in the future on the Stanislaus National Forest. All three charts were taken from the 1986 ROS Book published by the U.S. Department of Agriculture.

The Recreation Opportunity Spectrum (ROS) is useful for recreation planning in the Forest Plan, for inventorying recreational resources, for estimating the consequences of management decisions, for matching experiences that recreationists want with available opportunities, and to establish management direction for an area.

TABLE 1

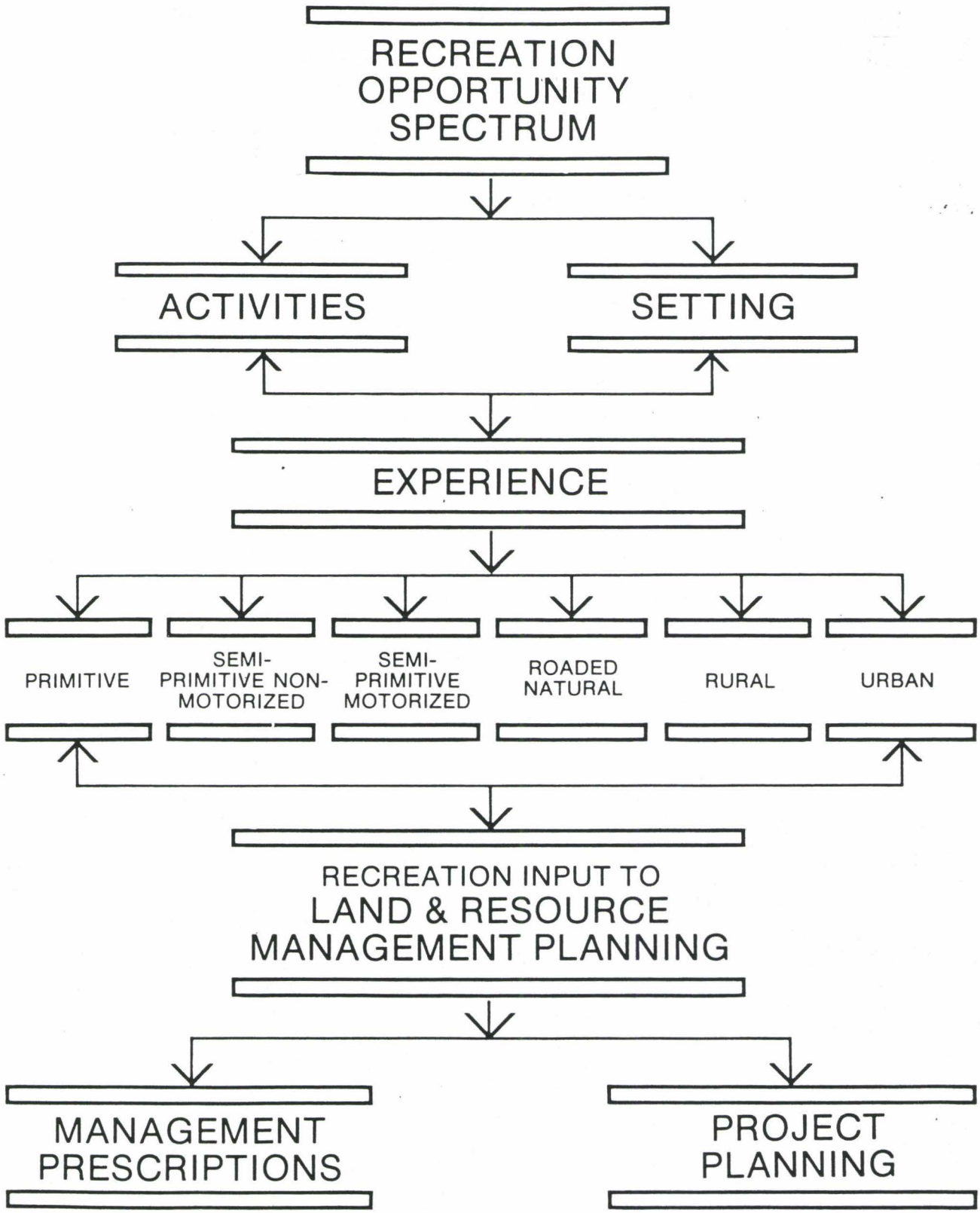

RECREATION OPPORTUNITY SPECTRUM
ACTIVITIES
SETTING
EXPERIENCE
PRIMITIVE
SEMI-PRIMITIVE NON-MOTORIZED
SEMI-PRIMITIVE MOTORIZED
ROADED NATURAL
RURAL
URBAN
RECREATION INPUT TO LAND & RESOURCE MANAGEMENT PLANNING
MANAGEMENT PRESCRIPTIONS
PROJECT PLANNING

TABLE 2

ROS Setting Characterization*

Primitive	Semi-Primitive Non-Motorized	Semi-Primitive Motorized	Roaded Natural	Rural	Urban
Area is characterized by essentially unmodified natural environment of fairly large size. Interaction between users is very low and evidence of other users is minimal. The area is managed to be essentially free from evidence of human-induced restrictions and controls. Motorized use within the area is not permitted.	Area is characterized by a predominantly natural or natural-appearing environment of moderate-to-large size. Interaction between users is low, but there is often evidence of other users. The area is managed in such a way that minimum on-site controls and restrictions may be present, but are subtle. Motorized use is not permitted.	Area is characterized by a predominantly natural or natural-appearing environment of moderate-to-large size. Concentration of users is low, but there is often evidence of other users. The area is managed in such a way that minimum on-site controls and restrictions may be present, but are subtle. Motorized use is permitted.	Area is characterized by predominantly natural-appearing environments with moderate evidences of the sights and sounds of man. Such evidences usually harmonize with the natural environment. Interaction between users may be low to moderate, but with evidence of other users prevalent. Resource modification and utilization practices are evident, but harmonize with the natural environment. Conventional motorized use is provided for in construction standards and design of facilities.	Area is characterized by substantially modified natural environment. Resource modification and utilization practices are to enhance specific recreation activities and to maintain vegetative cover and soil. Sights and sounds of humans are readily evident, and the interaction between users is often moderate to high. A considerable number of facilities are designed for use by a large number of people. Facilities are often provided for special activities. Moderate densities are provided far away from developed sites. Facilities for intensified motorized use and parking are available.	Area is characterized by a substantially urbanized environment, although the background may have natural-appearing elements. Renewable resource modification and utilization practices are to enhance specific recreation activities. Vegetative cover is often exotic and manicured. Sights and sounds of humans, on-site, are predominant. Large numbers of users can be expected, both on-site and in nearby areas. Facilities for highly intensified motor use and parking are available with forms of mass transit often available to carry people throughout the site.

*This table is for descriptive purposes only.
Use the five specific ROS class delineation criteria given in Table 2 to identify the actual areas to which these descriptions apply.

ROS Experience Characterization*

Primitive	Semi-Primitive Non-Motorized	Semi-Primitive Motorized	Roaded Natural	Rural	Urban
Extremely high probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skills in an environment that offers a high degree of challenge and risk.	High, but not extremely high, probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skills in an environment that offers challenge and risk.	Moderate probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skills in an environment that offers challenge and risk. Opportunity to have a high degree of interaction with the natural environment. Opportunity to use motorized equipment while in the area.	About equal probability to experience affiliation with other user groups and for isolation from sights and sound of humans. Opportunity to have a high degree of interaction with the natural environment. Challenge and risk opportunities associated with more primitive type of recreation are not very important. Practice and testing of outdoor skills might be important. Opportunities for both motorized and non-motorized forms of recreation are possible.	Probability for experiencing affiliation with individuals and groups is prevalent, as is the convenience of sites and opportunities. These factors are generally more important than the setting of the physical environment. Opportunities for wildland challenges, risk-taking, and testing of outdoor skills are generally unimportant except for specific activities like downhill skiing, for which challenge and risk-taking are important elements.	Probability for experiencing affiliation with individuals and groups is prevalent, as is the convenience of sites and opportunities. Experiencing natural environments, having challenges and risks afforded by the natural environment, and the use of outdoor skills are relatively unimportant. Opportunities for competitive and spectator sports and for passive uses of highly human-influenced parks and open spaces are common.

*These experiences are highly probable outcomes of participating in recreation activities in specific recreation settings.

TABLE 3

ROS
Activity Characterization*

Primitive	Semi-Primitive Non-Motorized	Semi-Primitive Motorized	Roaded Natural	Roaded	Urban
Land Based: Viewing Scenery Hiking and Walking Horseback Riding Tent Camping Hunting Nature Study Mountain Climbing Water Based: Canoeing Other Watercraft,non-motorized Swimming Fishing Snow and Ice Based: Snowplay X-Country Skiing/Snowshoeing	Land Based: Viewing Scenery Automobile (off-road use) Motorcycle and Scooter Use Specialized Landscraft Use Aircraft Use Hiking and Walking Horseback Riding Camping Hunting Nature Study Mountain Climbing Water Based: Boating (Powered) Canoeing Sailing Other Boating Swimming Diving(skin or scuba) Fishing Snow and Ice Based: Ice and Snowcraft Use Skiing,Downhill Snowplay X-Country Skiing /Snowshoeing	Land Based: Viewing Scenery Viewing Activities Viewing Works of Human-Kind Automobile (inclused off-road use) Motorcycle and Scooter Use Specialized Landcraft Use Train and Bus Touring Aircraft Use Aerial Trams and Lists Use Hiking and Walking Bicycling Horseback Riding Camping Picnicking Resort and Commercial Services Use Resort Lodging Recreation Cabin Use Hunting Nature Studies Mountain Climbing Gathering Forest Products Interpretive Services Water Based: Tour Boat and Ferry Use Boat(Powered) Canoeing Sailing Other Watercraft Use Swimming and Waterplay Diving(skin and scuba) Waterskiing and Water Sports Fishing Snow and Ice Based: Ice and Snowcraft Use Ice Skating Sledding and Tobogganing Downhill Skiing Snowplay X-Country Skiing/Snowshoeing	Land Base: Viewing Scenery Viewing Scenery Viewing Works of Human-Kind Automobile (includes off-road use) Motorcycle and Scotter Use Train and Bus Touring Aircraft Use Aerial Trams and Lifts Use Hiking and Walking Bicycling Horseback Riding Camping Picnicking Resort and Commercial Services Resort Lodging Recreation Cabin Use Hunting Nature Studies Gathering Forest Products Interpretive Services Team Sports Participation Individual Sports Participation Games and Play participation Water Based: Tour Boat and Ferry Use Boat(Powered) Canoeing Sailing Other Watercraft Use Swimming and Waterplay Diving(skin and scuba) Waterskiing and Watersports Fishing Snow and Ice Based: Ice and Snowcraft Use Ice Skating Sledding and Tobogganing Downhill Skiing Snowplay X-Country Skiing/Snowshoeing

*These Activities (from R1 M FSH 2309.11) are illustrative only. Specific additions or exception of activities within a ROS class may occur depending upon local forest situations.

RIGHT-OF-WAY ACQUISITION PROCESS

The Stanislaus was lacking any sort of inventory of recreation right-of-way needs. In order to invite the public to use an area of the Forest, we must first have the legal right for them to cross over any private lands. Otherwise, private landowners have the right to block access across their land.

The right-of-way acquisition process tends to be a lengthy, time consuming task. The sooner we know what our future recreation plans are, and what easements are needed, the better off we'll be in the long run. Once rights-of-way are accomplished, implementation of recreation plans can begin.

Exhibit B illustrates the various steps involved in the Right-of-Way Acquisition process. This listing was taken from the R-5 Right-of-Way I Training Guide.

ISSUES

LACK OF ACCESS

The Keystone Dialogue, referred to earlier in this document, focused on resolving the issue of providing public access to federal lands. The majority of federal lands are accessible to the public. However, in certain areas of the nation, this is not the case. Various homestead laws and railroad grants created many scattered tracts of public land surrounded by private land, which resulted in complex land pattern of intermingled private, federal, and state lands. For quite a few years, lack of an easement was really no problem. Many landowners did not care if government employees or the public crossed their lands.

However, times have changed, and property owners are now concerned about liability, vandalism, trespass, and other issues associated with public access. The access question is also complicated by property rights and varying liability laws among states.

LAND USE PLANNING

Throughout the nation, each Forest Supervisor has prepared or is in the process of preparing a comprehensive, integrated Land and Resource Management Plan which blends national and regional demands with local Forest capabilities and needs. Forest planning considers a broad range of reasonable management alternatives. The emphasis in national forest planning is on the future and how Forests can best be used and managed to meet people's needs.

The Forest Plan is coordinated with State and local plans affecting Forest lands. This information serves as a basis for developing more detailed project plans and future budget proposals.

The proposed Recreation Right-of-Way Plan will fall under the umbrella of the Stanislaus Forest Land and Resource Management Plan. Forest Service managers need to link the steps in the planning process and assure the consideration of local planning departments and private property owners. A bridge should be built early on between the planner, the specialists, and the private landowners.

MARKETING THE NEED FOR PUBLIC ACCESS

In our society, exchange is the basis for all marketing. Marketing facilitates the exchange of information between the consumer and the producer. In some respects, the Forest Service is the consumer and the private property owner is the producer within the sideboards of the right-of-way acquisition process.

The Forest Service needs to educate the public on the need for legal access to recreation opportunities on national forest lands. By public, we mean all Americans from throughout the United States, whether they actually set foot on the Stanislaus National Forest land or not. Typically, the agency does not discuss the subject with the public, our customer, until there is a problem. With improved communications, it is very likely that a crisis does not have to occur.

In addition to educating the public on the access issue, it is also important to educate private property owners about the subject in general. In order to target specific property owners, the agency must first identify access needs. The Recreation Right-of-Way Plan developed in this project will serve as an excellent tool in targeting these owners.

In my opinion, the Forest Service at times tends to be more internally focused than externally focused. As part of our marketing strategy, we need to focus more time and energy on the public and various user groups. We need feedback from the marketplace and two-way interaction.

NEGOTIATIONS WITH LANDOWNERS

Landowners should be contacted *early* in the process. The negotiator should address the need for access, alternative routes considered, and agency objectives. They need to practice assertive negotiating skills in addition to practicing good reflective listening skills.

Often there is a conflict between the goals of a private landowner and those of the Forest Service. Various problem solving techniques by the negotiator may help to resolve any conflict between the two parties. Negotiators must be able to deal with angry people and possess excellent skills for dealing with a variety of people.

Landowner's concerns need to be addressed early in the planning stage. Examples of such concerns include: fencing needs and maintenance; road standards; dust; liability; vandalism; fire; littering; privacy; gates and cattleguards; signing; and proximity to buildings. It is very important that the landowner has an opportunity for input into decisions made by the agency.

In addition to the above examples, many landowners are concerned with compensation for the right-of-way, disposition of right-of-way timber, and what changes may occur after access is granted. Owners may fear that their land value may drop if a public easement encumbers their property. Research by various Forest Service appraisers in Region Five has shown that the market value of properties that have public easements do not decrease in value. However, the agency will still need to deal with the perceptions and fears expressed by many landowners.

RIGHT-OF-WAY ACQUISITION DOCUMENTS CURRENTLY USED

Currently there are a number of documents that are customarily used for right-of-way acquisition. Wording of the document is fairly standard, although a Forest Service Regional Office may approve new wording. These documents include:

Exclusive Easements (Road and Trail)

An exclusive easement is the most common type of right-of-way acquired by the Forest Service. This is a permanent encumbrance on the land and becomes part of the land title. The Forest Service becomes the road manager and determines the standard of the road, when the road is open, and basically controls the road. The landowner still owns the land in fee, retains the right to use the road, and may retain the timber within the right-of-way. As required by Public Law 91-646, the landowner is paid just compensation for the easement. If they wish, they may waive this right and donate the easement. A donation may be a tax advantage for a landowner, but they should discuss this with their tax advisor.

Non-Exclusive Easements

On a case by case basis, the Forest Service may accept a non-exclusive easement, which basically gives it the right to use the road for administering Forest Service land. Public access is not included, and from a recreation access viewpoint, these documents are not useful. The landowner continues to manage the road and may assign rights to others.

License Agreements

A Temporary License Agreement is a short term document which is acceptable in the case of emergency access that is needed due to fire, fire salvage logging, and insect salvage sales. The term of the license can vary in length, but should not take the place of a permanent easement if long term access is needed. Again,

from a recreation access viewpoint, a License Agreement will not provide long term public access for recreation users.

Rental Road Agreements

These documents are available, but seldon used. Rental Road Agreements are a short term document between two parties. The road user pays the landowner a specific rental fee for the amount of timber hauled across a road. It appears that use of Rental Agreements is far more common in the private sector and would not serve a purpose in providing long term recreation access.

Use of Non-Exclusive Easements, License Agreements, and Rental Road Agreements are against current Forest Service policy except on a case-by-case basis.

ADDITIONAL OPTIONS PROPOSED BY KEYSTONE

Gifts and Donations

Gifts and donations of lands and rights-of-way may be encouraged through private non-profit organizations such as the Nature Conservancy and the Trust for Public Lands. These agencies may be able to lobby for the Forest Service in obtaining access, in addition to acquiring high priority parcels through land exchange.

Land Exchanges

Land Exchanges can provide public agencies with needed access. If land exchanges are used to resolve access problems, the land exchange process must be improved so that long delays are not a disincentive to landowners and agency personnel.

Fee Title Acquisition

Fee Title Acquisition of easements (Forest Service owns strip of land) may be a good arrangement in a few rare occasions, but in general, it is not a viable solution to a right-of-way problem. The exception to the rule may be a scenic easement or scenic byway.

Condemnation

The Forest Service has the authority to acquire easements through exercising the right of eminent domain (condemnation). Through this legal process, the Forest Service acquires an easement from an unwilling owner and the landowner is paid just compensation for the right-of-way. Some landowners pursue "friendly condemnation" in an effort to get as much money as possible for the easement. Condemnation is currently an alternative, but should continue to be viewed as a "last resort" approach. When all other reasonable approaches have failed to resolve an access problem, condemnation may be the only option.

LIABILITY

Liability insurance for private landowners may increase as a result of a public access corridor across their property.

Liability for injuries sustained by recreational users while on private property concerns many landowners. In most states, persons entering a premise are classified as invitees, licensees, or trespassers. Basically, invitees have the greatest protection, licensees have moderate protection, and trespassers have scant protection. Fourteen states - Alaska, California, Colorado, Hawaii, Louisiana, Maine, Massachusetts, Minnesota, Missouri, New Hampshire, New York, North Dakota, Rhode Island, and Wisconsin--hold the landowner to a single duty of care to licensees and invitees.

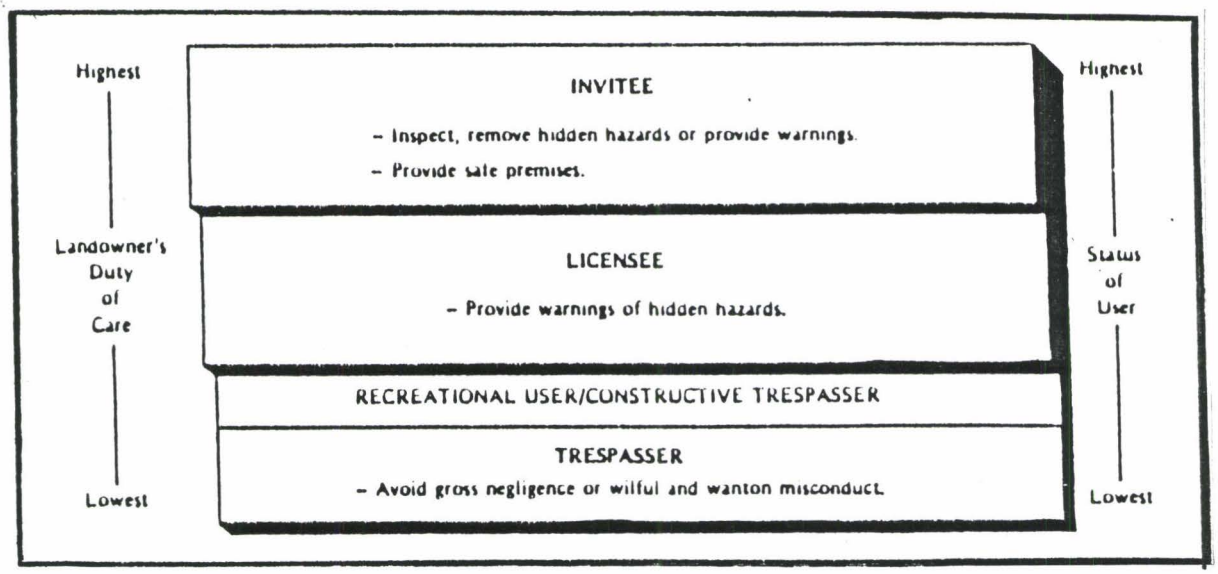
An invitee is a person expressly or implicitly invited onto the owner's property in connection with the owner's business or for the mutual interest of both parties. Thus, if a recreation user pays a fee to use the land, that person is an invitee. The landowner does not insure the invitee's safety and only has to exercise reasonable care to prevent unreasonable risks of harm. Liability for failure to exercise reasonable care extends only to the hazards about which the landowner knows or, as a prudent person, should have discovered. The landowner's legal duty of care is to inspect the land to discover hidden dangers, remove those dangers, or warn the invitee of their existence and take reasonable precautions for the safety of the invitee. For example, a landowner must not only warn the invitee of possible rockslides along a trail, if that is not obvious, but also must inspect the premises to discover if there are such hazards. On the other hand, the landowner is not liable for injuries from known and obvious rockslide dangers or from conditions that the landowner could not have discovered.

A licensee is anyone who enters the premises by permission only, without any economic or other inducement. As commonly used, a licensee is a social guest, whose use of the premises is gratuitous and not beneficial

to the landowner's primary use. For example, a person who is permitted to hunt on a farmer's land without a charge or other economic benefit to the farmer is a licensee. If the farmer charged a hunting fee or received some other economic benefit, the hunter could be classified as an invitee. Licensees must be appraised of hidden dangers known to the landowner but not obvious. The landowner has no duty to warn of known and obvious dangers or to inspect the premises to discover hidden hazards.

Lowest on the scale of legal protection is the adult trespasser. Generally, a landowner owes a trespasser no duty to discover, remedy, or warn of dangerous conditions. A recognized exception is that a landowner cannot willfully or wantonly injure a trespasser--an act of knowingly and intentionally committed or an act committed under circumstances of reckless disregard for the safety of the trespasser. For example, setting traps on the property without warning and with the intent to stop trespassers may constitute a willful and wanton act. Beyond this and a few other minor exceptions, the landowner has no legal duty of care to protect the trespasser.

The following illustration depicts the three classifications and liability associated with each one. The source of this information is from "Recreational Access to Private Land: Beyond the Liability Hurdle", which is included as Exhibit C.



In recent negotiations with Fibreboard Corporation for a hiking/biking trail easement, they referred to these categories. Their position is that currently, any user is a trespasser and the company would be protected from any liability. If they granted the Forest Service an easement and public use was encouraged, the user category would change to licensee, and the liability risk would likely increase.

According to the information provided in the Exhibit C article, this would not be the case if no fee is charged by the landowner. Courts would very likely not find the landowner guilty from a liability standpoint, but the company would likely incur attorney's fees.

Recreational use liability statutes, in effect in 46 states, provide landowners extensive liability protection when allowing gratuitous recreational use of private land by the public. Landowner apprehension about extensive liability to the recreational user should be unfounded. Yet this apprehension remains a pervasive roadblock to public use of private land. Perhaps effective landowner education programs are lacking.

The Keystone Dialogue report (Keystone Center, 1989, Page 30) also addresses this liability issue. The following recommendations were made in that report:

1. States should undertake reviews of their liability statutes and identify and address shortcomings. This might include a review of the Council of State Government's 1965 Model Liability Statute which has been adopted by many states. The group felt that all state liability statutes should include clear statutory provisions for landowners who allow the public to cross their private land to reach public land, to allow them to charge a reasonable fee that fully covers their administrative expenses related to the provision of the access and attendant uses (e.g., salary for a person to patrol, liability insurance, and cost of repairs of damages arising from the provision of the access) without triggering a higher threshold of liability.

2. Federal and state agencies should explore legislative and regulatory opportunities for public agencies to be able to assume the additional liability and related defense costs created by the provision of access by private landowners.

3. States should educate landowners about the coverage and limitations included in the state's liability statute.

4. States should consider the establishment of an insurance pool that could be available for covering private landowner's liability expenses related to provision of access across private land to reach public land.

5. Organized user groups that obtain access across private land should consider providing the landowner with liability insurance, thus protecting the landowner at no expense to the landowner.

6. In the implementation of the recommendations above, it would be advisable to obtain input from insurance companies and other relevant groups.

I hope that some changes are on the horizon for the liability issue. The Forest Service needs to be involved in this subject, since there are some real barriers confronted by negotiators in attempting to acquire easements. These barriers may only be perceptions or may be actual fact in some cases, but there continues to be a paranoia in society today related to possible liability issues. Exhibit D, "Liability Information", is a draft proposal of a handout I wrote in an attempt to educate the public and private property owners in particular. The draft is currently being reviewed by the Office of General Counsel in San Francisco prior to distribution.

PARTNERSHIPS/PUBLIC/OTHER AGENCY INVOLVEMENT

Over the past few years the Forest Service has become more involved in partnerships with various groups, businesses, volunteers, and individuals. Partnerships are the cornerstone of the Forest Service National Recreation Strategy. Examples of possible partnerships include trail maintenance, care of a campground, promoting environmental programs, rehabilitating recreation sites, or donating a right-of-way.

A good example of an arrangement that is popular today is the Recreation Challenge Cost Share Partnership. A Memorandum of Understanding is used to document the terms of the partnership. Each party carries out its separate activities in a coordinated and mutually beneficial manner.

Another type of partnership that is needed today is a concerted effort by county road agencies and the public concerned about access to federal lands. My observation is that historically, groups have worked separately from each other, and by doing so, may have created more problems than necessary for themselves and others.

The Keystone Report (Keystone Center, 1989, Page 1) suggests the following needs:

1. Strong policy direction for action by federal, state, and local public leadership.
2. Partnerships involving leaders of land user and landowner organizations, and those managing public access corridors at the local, state, and national level.
3. Timely, forthright, and innovative implementation of plans to provide needed access by field land managers in close cooperation with local government, private landowners, and public land users, and
4. A coordinated incorporation of public access needs into the planning processes of federal, state, and county land management officials.

There is a strong need for increased communications among landowners, public land users, and government agencies. Input on access needs in Forest Plans is important, in addition to ongoing public involvement efforts by counties and agencies.

Volunteers, especially from user groups and local communities, should be used by federal land agencies to assist in monitoring particular access routes. Volunteers could erect and maintain signs, staff entrances, monitor routes, report violations, and provide assistance in dealing with access impact problems. Four Wheel Drive Clubs have participated in the "Adopt-A-Road" maintenance program.

There are opportunities for private and publicly owned companies to get involved in partnerships. A recent partnership was formed between the Forest Service, Pacific Gas and Electric Company (PG&E), and Fibreboard Corporation to develop a "Rails to Trails" bike trail on the Mi-Wok District. The existing trail is an old railroad grade that crosses through National Forest, PG&E, and Fibreboard lands. Right-of-way needs are addressed in the Recreation Trail Right-of-Way Plan (51-T-37 thru 51-T-39).

Another opportunity on the Forest is a possible partnership with Pacific Bell Telephone Company on the Calaveras District. District recreation personnel are considering the feasibility of developing a mountain bike trail along a telephone utility easement. The company is currently proposing to place underground their utility line for an eighteen mile stretch along Highway 4. The path may prove to be an ideal location for a bike trail adjacent to the highway. The biking trail would connect various towns and provide bike trail access to adjacent National Forest land. Rights-of-way could be acquired by either Pacific Bell or the Forest Service. Subject easement needs are addressed in the proposed Recreation Trail Right-of-Way Plan (52-T-45).

One benefit for the companies in these partnerships is that they have an opportunity to educate the public about their organization, their land-use policies and procedures. More and more businesses are becoming involved in public relations and recreation is an excellent way to educate people.

FUNDING

One of the keys to successful right-of-way acquisition is adequate funding. Costs include salary for right-of-way personnel, preliminary title reports. appraisals, survey work, title processing, and compensation for easements.

On the Stanislaus National Forest, quite a number of recreation areas have been accessed through acquisition of rights-of-way for timber access purposes. However, not all areas are heavily timbered and the Forest must find ways to gain access for other user groups.

Funding through the Forest Service budget process is very competitive. In order to compete for funding, the consequences of not having public access need to be highlighted. How many acres of national forest land are inaccessible due to a lack of public access? How many rights-of-way are needed for existing roads on the forest transportation system where such use could be challenged by private landowners? What are the other consequences of not having public access? Some of these consequences include:

1) Exclusive use of national forest land by adjacent property owners.
2) Frustrated public due to closed roads.
3) Cases of trespass due to lack of rights-of-way.

The Forest needs to highlight these points and inventory access needs so that the right-of-way program can compete for funding within the budget process. Exhibit E of this project, in addition to The Forest Timber Right-of-Way Action Plan, will serve as an inventory of current access problem areas.

In addition to traditional funding, it is important to look for other sources of funds to support resolution of access issues.

One very good alternative that should be considered for certain types of recreation easements are Recreation Challenge Cost Share dollars. The Forest Service has developed the following guidelines to follow when considering this type of funding:

1. The proposed project is consistent with direction in the Forest Plan.
2. At least 50 percent of total project cost be borne by cooperators. Easements could be donated by landowners and volunteers could be used for brochure design, trail maintenance and patrol. This type of assistance could easily provide more than 50 percent of project cost.
3. Projects in Congressionally designated areas be given Special Consideration.
4. Projects on forests near urban areas are favored.
5. Preference should be given projects with high visibility with strong, diversified public support.
6. Emphasize cash and materials rather than contributions of labor.

There are a number of right-of-ways on the proposed Recreation Right-of-Way Plan that would meet all or most of the above criteria.

The Keystone Dialogue Group also recommended some possible revenue sources:

A. State motor vehicle license fees.
B. Permits (best if collected by states, since revenue collected by the federal agencies usually goes into the general fund).
C. Matching funds from other public, state, or local agencies.
D. Land and Water Conservation Fund and/or the Federal Highway Trust Fund.

Another source of funding for Off-Highway Vehicle (OHV) type access may be through an OHV Grant Project. To date, this money has been used for the development and implementation of OHV Projects, but has not been considered for use in the Right-of-Way Acquisition process on the Stanislaus. Other forests in

Region 5 have used OHV funds for acquiring rights-of-way.

Funding is a basic need for any program to have a successful outcome. Traditional funding may meet some of the costs to acquire needed easements, but the Forest needs to be creative in its approach toward receiving competitive dollars. Without the necessary money to implement the Right-of-Way Acquisition Program, success cannot be expected.

SUMMARY OF RECREATION RIGHT-OF-WAY-PLAN

The proposed Forest Recreation Road and Trail Right-of-Way Plan is included in this paper as Exhibit E. Exhibit F illustrates these needs on a Forest map.

The plan is an inventory of forest recreation access needs as of March 1, 1990. In drafting this inventory, reference was made to the proposed Forest Land and Resource Management Plan, the proposed Interim Off-Highway Vehicle Plan, the Forest Trails Plan, and the Forest Right-of-Way Atlas.

The inventory includes the following information:

1) Case Number — Districts are identified by district number (Groveland - 54; Summit - 53; Calaveras - 52; Mi-Wok - 51)
   R - Road
   T - Trail
   1 thru 50 - Case Number
2) Landowner's name (Grantor)
3) Road or Trail Number and/or Name
4) County Assessors Number (A.P. No.)
5) Legal description (Township, Range, Section)
6) Date right-of-way is needed - except for right-of-ways included in 1990 Right-of-Way Action Plan, dates will be added when plan is reviewed and prioritized by district staffs.
7) Project name
8) Length of road or trail (raw land or existing)
9) Number of easements needed
10) Estimated consideration to be paid to landowner
11) ROS classification (Preferred alternative of proposed Forest Plan)
12) Acres of national forest land that are not legally accessible
13) Remarks

The detail provided in the inventory will be helpful in the implementation of the Recreation Right-of-Way Plan.

The Recreation Road Right-of-Way Plan includes 27 cases, approximately 23.4 miles of road rights-of-way needed, 27 deeds, $8400 in consideration payment, and an estimated 17,500 acres of national forest land that are not legally accessible to the public.

The Recreation Trail Right-of-Way Plan includes 23 cases, approximately 15 miles of trail rights-of-way needed, 15 deeds, $5350 in deed consideration payment, and an estimated 11,160 acres of national forest land that are not legally accessible to the public.

There are approximately 28,660 acres of national forest land that are inaccessible due to lack of easements. This represents approximately three percent of the total number of acres on the Stanislaus National Forest.

At first glance, three percent appears to be a fairly small portion of the 898,902 acres on the Forest. As stated earlier, not all acreage has to be available for public access. However, a number of rights-of-way that are shown on the plan will provide access to important recreation opportunities on the Forest, such as Case Nos. 53-R-27 and 53-T-36.

In order for the Forest to implement the proposed Forest Land and Resource Management Plan, the Interim Off-Highway Vehicle Plan, and the Forest Trails Plan, acquisition of rights-of-way is a critical initial step that must be successfully accomplished.

CONCLUSIONS AND RECOMMENDATIONS

This project is broad in perspective because the Right-of-Way Acquisition process is complex in nature. The very nature of dealing with the public and private landowners makes for some challenging days in the real estate work of the Forest Service.

Planning, with public involvement early in the planning stages, is very important. Few people like to be told what they will do, especially relative to their property rights. We all like to feel like there is some opportunity for our input.

The Forest Service needs to be aware of private property rights and also be sensitive to liability concerns expressed by property owners. Agency personnel should understand state recreational statutes and participate in efforts to educate the public about liability laws.

There may be some unique situations where a temporary permit or license may be adequate for access needs. The current policy is that permanent access is needed all the time, except for emergency type access for logging salvage timber or fighting a fire. On a case by case basis, the Regional Office Road Committee may approve a Forest's request to acquire rights that are less than permanent in nature.

When friendly negotiations have been attempted and a property owner refuses to cooperate, the agency may need to seriously consider condemnation. If access is definitely needed and no feasible alternative routes exist, the Forest Service should pursue condemnation.

Prior to the implementation of the proposed Recreation Road and Trail Right-of-Way Plan, I recommend that the Ranger District Staff personnel work with me to set priorities for right-of-way accomplishment.

Proposed criteria with a rating scale that can be used in prioritizing recreation rights-of-way is shown below:

1. ROS classification of land - what is management's direction for management of this area?
2. Existing Uses - Is road or trail currently being used by the public without an easement across private land?
3. Does subject area have public access already provided through use of another road or trail?
4. Does forest have any capital improvement, OHV Grant, or other type of plan proposed for subject area?
5. Is landowner willing to grant an easement or will Forest have to condemn for right-of-way?
6. What other multiple use needs will be met by acquisition of this easement?

Scale-----1 (Lowest) - 10 (highest)

After those recommendations have been made, I will present the plan to the Forest Management Team for approval. This prioritization and approval will take place prior to September 1, 1990.

Implementation of the approved plan can begin in September 1990 with the inclusion of at least two recreation-type rights-of-way in the 1991 Forest Right-of-Way Action Plan. The Forest should continue to include at least two recreation-type right-of-ways on an annual basis until all priority easements are acquired or a determination has been made that the property owner will not cooperate and the agency will or will not pursue condemnation proceedings.

Also, the proposed Recreation Road and Trail Right-of-Way Plan is not intended to be set in concrete. It is meant to be a "Living Document" that can flex and change as the future needs of the organization change. The plan is meant to be a dynamic tool for planning, discussing, and keeping alive the important issue of legal recreation access on the Stanislaus National Forest.

BIBLIOGRAPHY

Personal Communications

Allison, Lonnie	Recreation Technician, Stanislaus National Forest, Calaveras District, Hathaway Pines, CA
Behm, Jim	Forester, Stanislaus National Forest, Calaveras District, Hathaway Pines, CA
Conners, Pam	Historian, Supervisor's Office, Stanislaus National Forest, Sonora, CA
Franks, Ted	Forester/Hydroelectric Coordinator, Stanislaus National Forest, Calaveras District, Hathaway Pines, CA
Graves, Carl	Forester, Stanislaus National Forest, Calaveras District, Hathaway Pines, CA
Kermeen, Brian	Landscape Architect, Supervisor's Office, Stanislaus National Forest, Sonora, CA
Lane, Bill	Resource Officer, Stanislaus National Forest, Groveland District, Groveland, CA
Maschi, John	Landscape Architect, Stanislaus National Forest, Supervisor's Office, Sonora, CA
Mousseau, Joyce	Forester, Stanislaus National Forest, Mi-Wok District, Mi-Wuk Village, CA
Phelps, Rich	Resource Officer, Stanislaus National Forest, Calaveras District, Hathaway Pines, CA
Rene, Bruce	Planner, Region 10, Forest Service, Regional Office, Juneau, Alaska
Robertson, Steve	Resource Officer, Stanislaus National Forest, Mi-Wok District, Mi-Wuk Village, CA
Usher, Vernon	Leader, Right-of-Way Group, Region 5, Forest Service, Regional Office, San Francisco, CA
Wetzel, Bob	Resource Assistant, Stanislaus National Forest, Calaveras District, Hathaway Pines, CA

Publications

Banner, Joseph J. - *Recreation in the Future Tense*, 1990

Barker, Paul - *An Environmental Agenda for the National Forests in California*, 1990

Caskey, Ed. - *Frugal Me! Frugal Me!* (A light approach to serious writing), 1985

Clark, R., Koch, R., Higans, M., Christensen, H., Hendec, J. - *The Value of Roaded Multiple Use Areas as Recreation Sites in Three National Forests in the Pacific Northwest*, 1984

Clipp, Paul - *Southern Associates, Assertive Negotiating-Handling Conflict*

Costley, Dick - *Historical Foundation of Forest Recreation*

Davis, K., Parsons, E., Randall, R. - *Role of Access Fees in Managing Wildlife Habitat on the Federal Lands*, 1987

Feuchter, Roy D. - *Recreation Opportunity Spectrum*

Henson, Larry - *The Road Issue: Clearing the Way*

Hronek, Bruce - IPA, US Forest Service R-9-Indiana University-Managing Risk on the Ranger District (Understanding and Reducing Legal Liability)

John, De Witt - *Roads on the National Forests: The Perspective of the State of Colorado*, Caspar, Wyoming, 1984

Justice, Wendy D., Hildebrandt, Reinee - *Public Access to Private Kansas Lands for Recreation Purposes*

Kaiser, Ronald A., Brett, A. Wright - *Recreational Access to Private Land: Beyond the Liability Hurdle*, 1985

Keystone Center - *The Keystone Center Policy Dialogue on Access to Federal Lands - Final Report*, 1989

McLellan, Gina - *What the Trends Tell Us*, 1986

Mosseau, Joyce - *Rails to Trails Conversion - Designed for Mountain Bicycling*, 1989

Syme, John H. - *Should Land Management Government Agencies Embrace the Marketing Concept?*, 1988

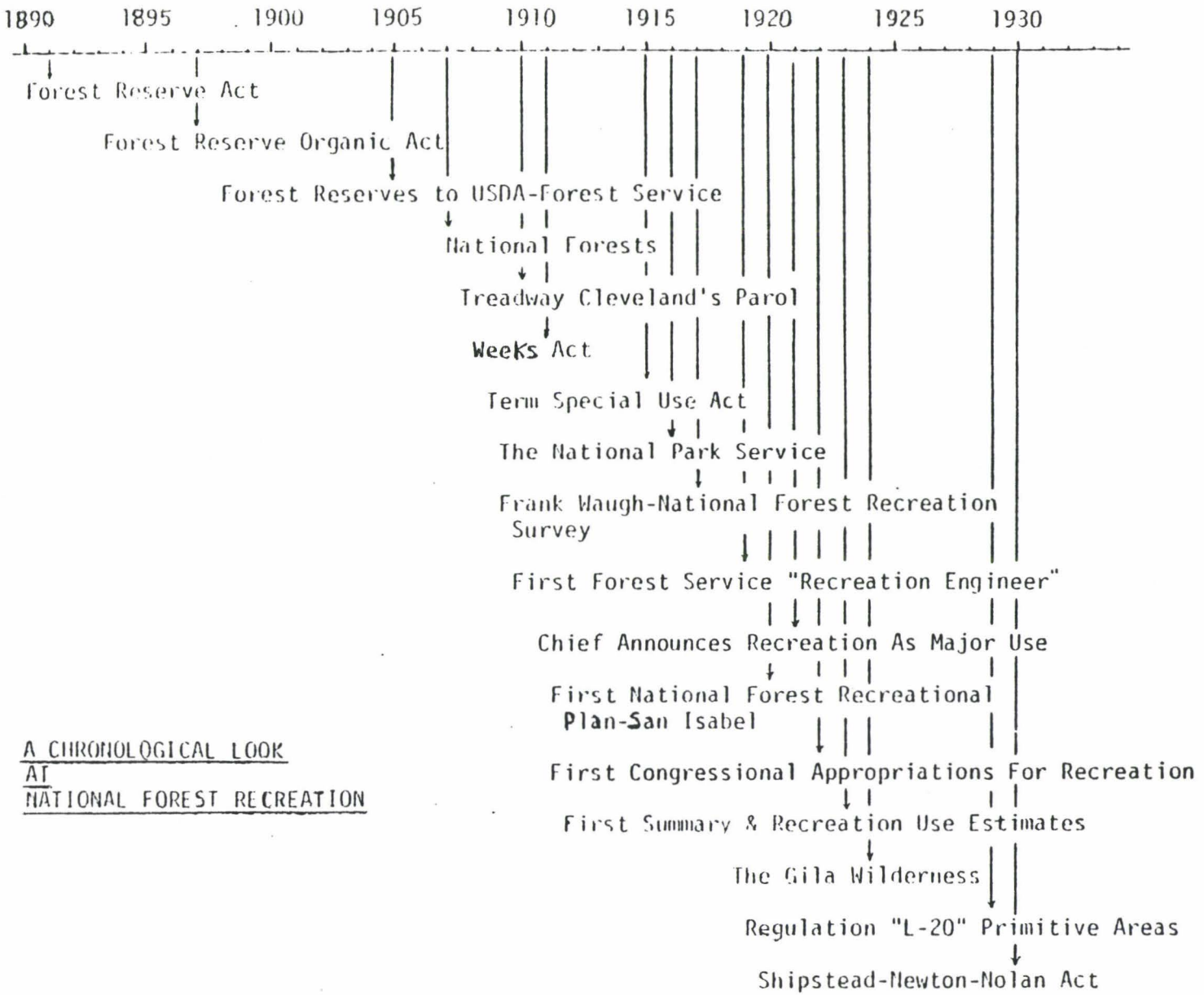
Torrence, Jim - *The Role Roads Play in Management of National Forests - Forest Transportation Symposium*, Casper, Wyoming, 1984

Tweed, William C. - *A History of Outdoor Recreational Development in National Forests - 1891 - 1942*

99th Congress - 2nd Session - *Access to Public and Private Lands*, Rock Springs, Wyoming, 1986

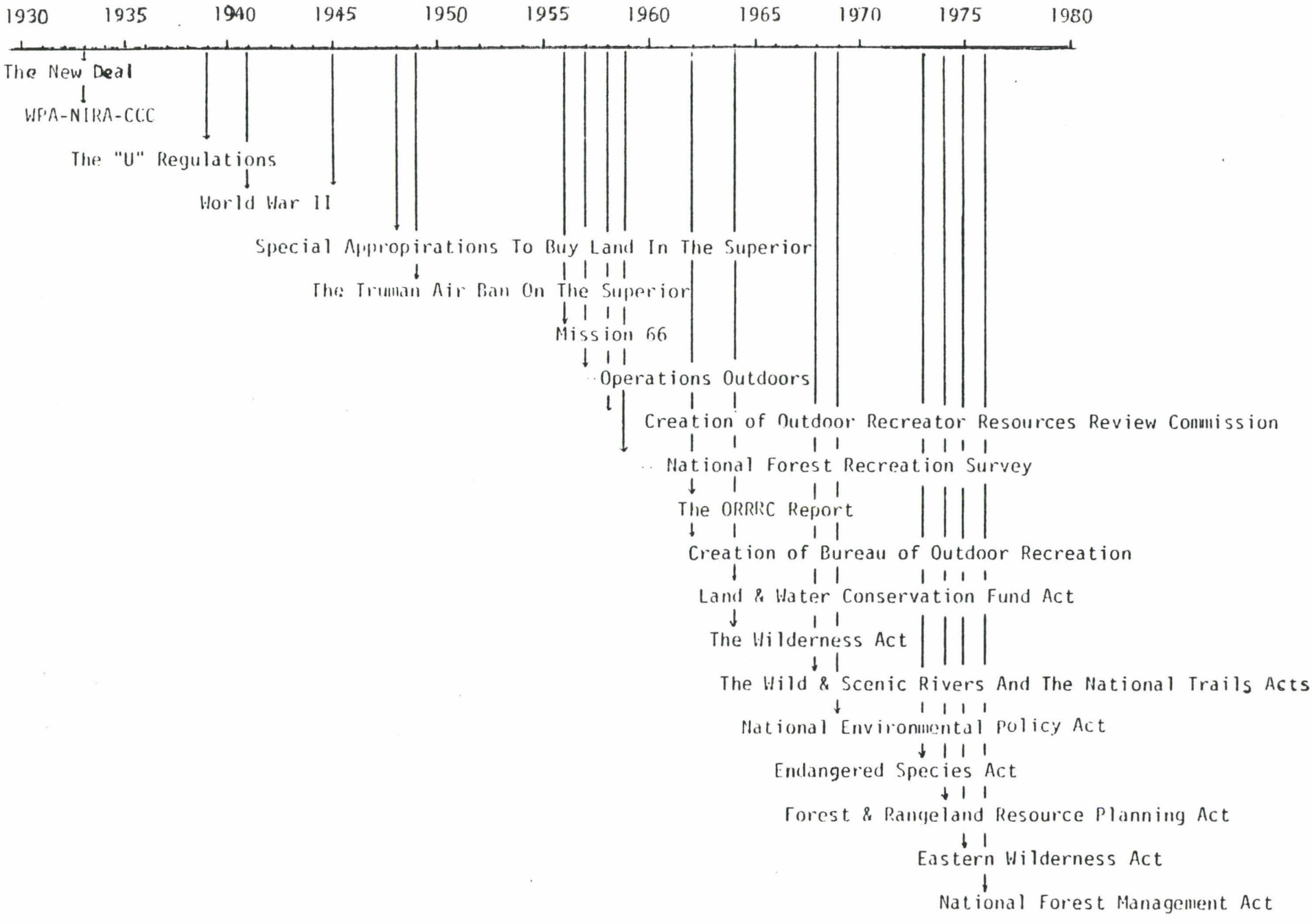
U.S. Department of Agriculture - 1986 ROS Book

APPENDICES



A CHRONOLOGICAL LOOK
AT
NATIONAL FOREST RECREATION

Exhibit A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The "U" Regulations
World War II
Special Appropirations To Buy Land In The Superior
The Truman Air Ban On The Superior
Mission 66
Operations Outdoors
Creation of Outdoor Recreator Resources Review Commission
National Forest Recreation Survey
The ORRRC Report
Creation of Bureau of Outdoor Recreation
Land & Water Conservation Fund Act
The Wilderness Act
The Wild & Scenic Rivers And The National Trails Acts
National Environmental Policy Act
Endangered Species Act
Forest & Rangeland Resource Planning Act
Eastern Wilderness Act
National Forest Management Act

Exhibit B

STEPS IN THE RIGHT-OF-WAY ACQUISITION PROCESS
R-5 Right-of-Way I Training Guide

I. Determining the need for the easement.

1. Timber Sale Action Plan
2. Forest Transportation System Plans
3. Road Construction Program
4. Recreation and other Plans

II. Route Selection.

1. Avoid crossing private lands, when possible.
2. If private land will be crossed, locate the road to minimize the damage to the property and if feasible, enhance the property.

III. Obtain a Title Report, after it is determined an easement will be needed.

1. Check tax assessors records for names and address of private landowner. At the same time determine the size of the private parcel over which the easement will be located.
2. Order a Title Report for the private land that is considered the larger parcel. Title Status must be known so that a Before and After Appraisal can be done. In very large ownerships, Title Reports need be ordered only for the area affected by the easement and identified as the "larger parcel".

IV. Obtaining Landowners permission to survey and appraise.

1. Always obtain permission. We have no right to enter private property without the landowner's permission.
2. Obtain permission in writing, to avoid misunderstandings.
3. Obtain landowner's opinions and ideas on easement location, when there is more than one possible location.

V. Surveying the easement.

1. The type and standard of survey depends on the particular situation.
2. Right-of-Way personnel must be knowledgeable of right-of-way survey requirements. (See FSM 7153)
3. Right-of-Way personnel should coordinate with Engineering, prior to start of survey, in order that Engineering is informed of right-of-way needs and requirements.

VI. Preparing the easement deed and determining how to handle title exceptions.

1. Title exceptions must be investigated and understood prior to the writing of the granting clause for the easement deed. It may be necessary to include others having prior rights or interest in the granting clause.

2. Determine if title exceptions can be waived, subordinated, consented to, owners of interest included in the deed, or dropped from Policy of Title Insurance, insuring easement.

3. Use OGC approved clauses and/or sample deed formats.

VII. Estimationg Just Compensation.

1. The 5th Amendment to the Constitution of the United States states "nor shall private property be taken for public use, without just compensation".

2. Just Compensation is loss in value, if any, to the private property, "larger parcel", as a result of the imposition of the Government easement.

3. Just Compensation is determined by an appraisal based on the "Before and After" appraisal process.

4. Approval of estimated Just Compensation must be obtained from the Forest Supervisor if value is $2,500.00 or less and from the Regional Forester if over $2,500.00.

VIII. Clearing Title (Before and After Deed Acquired).

1. Use curative documents -
(Examples: Subordination Agreements, Consent to Commom Use Agreement, Request for Partial Reconveyance and Partial Reconveyance, etc.)

2. Curative Documents must be recorded.

XI. Having the easement deed signed and acknowledged.

1. The preferred method is take the easement deed to the landowner for signature.

2. If not practical to deliver the deed to the landowner, mail it via certified mail.

3. Signatures must be notarized.

X. Recording the easement deed and necessary curative documents.

1. Deliver the easement deed and necessary curative documents to the County Recorder in the County(ies) where easement is located.

   or

2. Deliver easement deed and necessary curative documents to Title Company for recording.

XI. Ordering Policy of Title Insurance.

1. Must be on U.S. Policy Form 1963 A.L.T.A., or may be shown as American Land Title Association U.S. Policy Form 1963.

2. The coverage of insurance must be sufficient to cover deed consideration or meets the limitation to liability in 1970 Standards for the Preparation of Title Evidence in Land Acquisition by the United States, Department of Justice.

XII. Sending final title assembly to the Regional Attorney for title approval.

1. Send documents specified in the Forest Service Handbook.

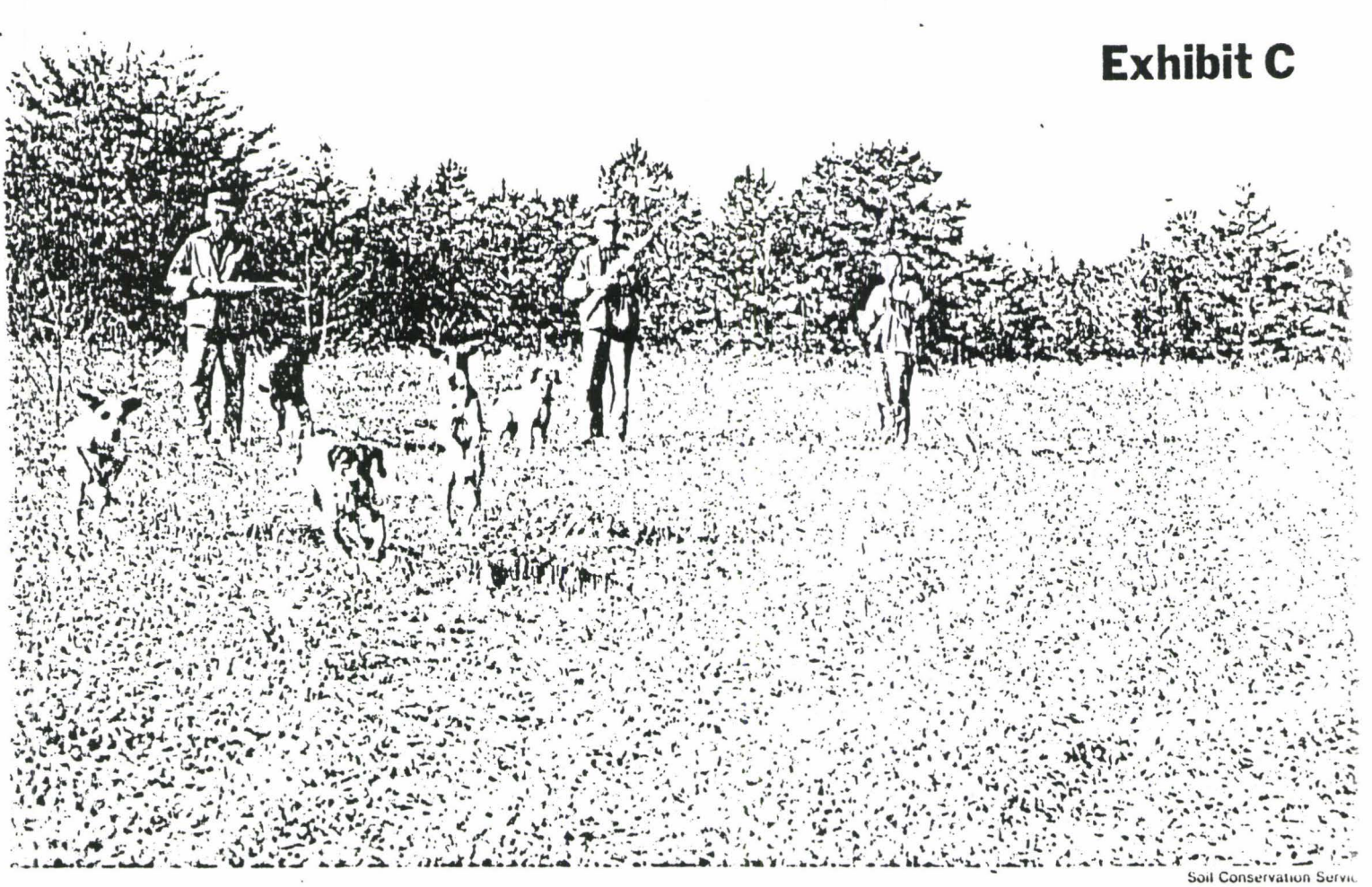
XIII. Paying Grantor after Regional Attorney title approval.

1. Inform Forest Fiscal Staff of Regional Attorney Titel Approval and request processing of payment to Grantor.

XIV. Completing case.

1. Place copy of approved deed and Regional Attorney approval letter in Forest right-of-way deed file and post on Forest Right-of-Way Status Record.

Exhibit C



Soil Conservation Servic

Recreational access to private land: Beyond the liability hurdle

By Ronald A. Kaiser
and Brett A. Wright

Landowner apprehension about liability questions remains a stumbling block to public use of private land for recreational purposes

AMERICA'S farm, forest, and ranch land faces a crisis of conversion and closure. This crisis may result in the loss of agricultural and forest production as well as the availability of land for outdoor recreation. The latter loss is especially critical because many people propose that recreational use of private land is a partial solution to satisfying America's burgeoning demand for recreational opportunity.

Ironically, as more Americans are seeking outdoor experiences, the usable land base is shrinking. In 1962 the Outdoor Recreation Resources Review Commission projected that recreational demand would triple by the year 2000. That projection was surpassed in 1983 (*17*). Federal, state, and local efforts to acquire more recreational land have not kept pace with those demands. Park visitations increase yearly causing overuse and degradation of natural resources.

The available rural, private landbas also has declined. Urban expansion consumes an estimated 1.5 million acres of agricultural land annually (*17*). In addition critical wildlife production and huntin areas, such as wetlands, are being draine or converted to other uses at an estimate rate of 400,000 acres a year (*17*).

Land closure, although different in pro cess than conversion, has the same effect o supply. Landowner posting of privat land, or closure to the public, is increasin rapidly (*2, 8, 14,* 23). A 1966 study in Ne York disclosed that 25 percent of the state rural acreage was closed to public acces (23). By 1972 about 42 percent of the lan was posted, an increase of nearly 3.5 mil lion acres (2). By late 1980 about 50 per cent of the rural, private land in upstat New York was posted against access (3).

Closure is not limited to farmland. I 1960 97 percent of 68 million acres of cor porately owned forest land was open t

Ronald A. Kaiser is an attorney and assistant professor, Institute of Renewable Natural Resources, Texas A&M University, College Station, 77843; Brett A. Wright is an assistant professor, Department of Recreation, George Mason University, Fairfax, Va. 22030.

public recreation. By 1977 that figure had fallen to 58 percent, a loss of 23 million acres of land available for public recreational use (*17*).

This land closure trend is broad-based, with suggested causes involving conflict between landowners and recreational users: user misconduct, exclusivity of resource use by the owner, insufficient economic incentives for the owner, or potential injury liability problems (*24*).

Landowners most often cite user misconduct and the resulting property damage as the major reason for property closures (*2, 8, 14, 18*). As well as property damage problems, a landowner likely regards behavior that leads to conflict with ownership objectives as inappropriate.

Compounding the conflict is the motivation for owning rural land. Where people once owned rural land for agricultural production, land today is also held for investment, tax relief, speculation, recreation, or second-residency purposes (*1, 10, 15*). Most often these objectives are incompatible with public recreational uses.

Many landowners feel that fish and wildlife resources on their property should benefit only themselves or their invited guests (*24*). Such an exclusivity view again is incompatible with public access, particularly when the access includes resource consumption. The belief that cash payments offer landowners an incentive to allow recreational use of their land is not always valid (*2, 10, 12*). In some cases nonmonetary compensation is more of an inducement for landowners to open land to recreational use.

Liability for injuries sustained by recreational users while on property concerns many landowners (*8, 10*). Landowners participating in the Agricultural Stabilization Conservation Service's Pilot Public Access Program indicated that liability ranked second in terms of problems, exceeded only by littering (*25*).

The liability question

American law accords landowners preferential liability treatment. The legal maxim "so use your own property as not to unreasonably injure others" conveys the accepted rule. Mere ownership of land and the fact that a visitor was injured on that land does not presume liability for the injury. Landowner liability is predicated on establishing negligence by the landowner under the following tenets (*6*):

► *Legal duty.* A landowner has a legal obligation to conform to certain conduct to protect visitors against unreasonable risks of harm.

► *Performance failure.* A landowner, through inaction or improper action fails to conform to the required standards.

► *Casual connection.* There must be a reasonable link between the failure to perform and the injury to the visitor.

► *Injury.* There must be an actual loss or injury to the visitor.

If there is a legal duty to act and the landowner fails in this duty, the landowner may be liable for the visitor's injuries.

The legal duty of care required of a landowner depends upon the status of the person on the premises. In most states persons entering a premise are classified as invitees, licensees, or trespassers. Each classification has varying degrees of legal protection. Basically, invitees have the greatest protection, licensees have moderate protection, and trespassers have scant protection. Fourteen states—Alaska, California, Colorado, Hawaii, Louisiana, Maine, Massachusetts, Minnesota, Missouri, New Hampshire, New York, North Dakota, Rhode Island, and Wisconsin—hold the landowner to a single duty of care to licensees and invitees (*16*).

An invitee is a person expressly or implicitly invited onto the owner's property in connection with the owner's business or for the mutual interest of both parties. Thus, if a recreation user pays a fee to use the land, that person is an invitee. The landowner does not insure the invitee's safety and only has to exercise reasonable care to prevent unreasonable risks of harm. Liability for failure to exercise reasonable care extends only to the hazards about which the landowner knows or, as a prudent person, should have discovered. The landowner's legal duty of care is to inspect the land to discover hidden dangers, remove those dangers, or warn the invitee of their existence and take reasonable precautions for the safety of the invitee. For example, a landowner must not only warn the invitee of possible rockslides along a trail, if that is not obvious, but also must inspect the premises to discover if there are such hazards. On the other hand, the landowner is not liable for injuries from known and obvious rockslide dangers or from conditions that the landowner could not have discovered.

A licensee is anyone who enters the premises, by permission only, without any economic or other inducement. As commonly used, a licensee is a social guest, whose use of the premises is gratuitous and not beneficial to the landowner's primary use. For example, a person who is permitted to hunt on a farmer's land without a charge or other economic benefit to the farmer is a licensee. If the farmer charged a hunting fee or received some other economic benefit, the hunter could be classified as an invitee. Licensees must be appraised of hidden dangers known to the landowner but not obvious. The landowner has no duty to warn of known and obvious dangers or to inspect the premises to discover hidden hazards.

Lowest on the scale of legal protection is the adult trespasser. Generally, a landowner owes a trespasser no duty to discover, remedy, or warn of dangerous conditions. A recognized exception is that a landowner cannot willfully or wantonly injure a trespasser—an act knowingly and intentionally committed or an act committed under circumstances of reckless disregard for the safety of the trespasser. For example, setting traps on the property without warning and with the intent to stop trespassers may constitute a willful and wanton act. Beyond this and a few other minor exceptions, the landowner has no legal duty of care to protect the trespasser.

Recreational use liability statutes

In the absence of a modifying statute, these common law rules apply to a landowner who allows public access to private land. Recent recreational use liability statutes now in effect in 46 states have altered the landowners duty of care to the gratuitous recreation visitor. Most of the statutes originated from a model act proposed in 1965 by the Council of State Governments.

Landowners duty of care. The model act and corresponding state statutes substantially reduce the landowners duty to the gratuitous recreation user. Presumably, this trade off between a landowner's liability for public access encourages landowners to open land for recreational use. Sections 3 and 4 of the model act specifically provide that the landowner who gratuitously invites any person onto property for recreational purposes (a) "...owes no duty of care to keep the premises safe for entry or use for recreational purpose or to give warning of a dangerous condition, use, structure or activity on such premises to (such) persons" and (b) does not "confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed." Recreational users, in effect, are downgraded to constructive trespassers. Thus, the landowner is only liable for willful and wanton misconduct, and the acts offer a statutory promise that consent to free use of the land will not subject the landowner to liability.

Thirty-one states have adopted a standard of care patterned after the model act, 11 have developed a modified standard, and 4 have a vague definition. Appellate courts have made decisions interpreting the duty of care in only 14 states, suggesting the statutory standard of care has posed few problems for application and interpretation.

Laws in Delaware, Massachusetts, Michigan, South Dakota, Vermont, and Washington do not mention the status of the visitor in establishing a standard of care. But the laws in these states specifically define a standard that would classify recreational users as trespassers. California, Hawaii, and Indiana are exceptions—statutes specifically exempt the social guest from the lower standard when recreational use is incidental to the prime purpose of the visit.

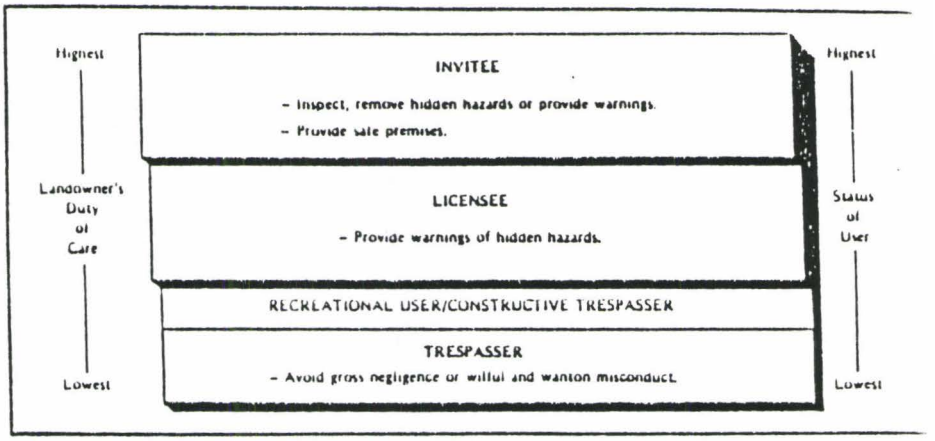
Gratuitous recreational user. Landowners receive liability protection only when the recreational use is gratuitous. When a landowner charges for recreational use, liability protection ceases. The various statutes define "charge" as an "admission price or fee asked in return for invitation or permission to enter the land." Most states exclude from the term charge those fees received by a landowner for leasing land to the government for recreational purpose. Exceptions to this include Alabama, Arizona, Delaware, California, Michigan, Montana, Nevada, South Dakota, Vermont, and Washington.

Although the definition of charge appears straightforward, two issues have surfaced: whether an admission price may consist of nonmonetary benefits and whether a charge should be construed as the cost for direct entry on the land. Case law on these issues is conflicting.

A Georgia court held that any "goodwill" associated with allowing free public recreational use of a company-owned lake resort was not a charge (9). Georgia's statutory definition of a charge is identical to that in the model act.

A Wisconsin court, however, concluded that free public swimming and diving was a "valuable consideration" to a resort landowner because of expected increased sales by the resort, which operated a store and equipment rental (4).

These conflicting cases illustrate a narrow and broad interpretation of the terms charge and consideration. Georgia's interpretation of charge as a direct monetary payment can be praised and criticized as ignoring other economic benefits accruing to the landowner. Similar arguments can be made regarding the Wisconsin definition.



Status of outdoor recreational users following the model act, "Public Recreation on Private Lands: Limitations on Liability."

Given the avowed purpose of recreational use statutes as encouraging landowners to open land for public recreation, the better reasoned approach is a broad reading of the term charge. The commentary to the model act supports this position, outlining that immunity should apply only to landowners who receive no compensation or other favor. This position is consistent with decisions by other courts (5, 13).

A second issue concerns the connection between the payment of a fee and access to land. For example, do parking lot or equipment rental fees constitute a payment for permission to go upon the land? Again, two lines of interpretation are possible. In a Georgia case the Stone Mountain Memorial Association charged visitors a $2 parking fee but did not charge for pedestrian access to the park. The court ruled the fee was an auto permit fee and not an entrance fee. Therefore, the person was a gratuitous user, and the association enjoyed liability protection (21). This is a narrow reading of the term admission price and is not the majority view (11, 19).

The majority interpretation holds that any fee directly or indirectly related to using the land is a charge and the use is not gratuitous. For example, a Nevada court concluded that a camping fee paid to a private concessionaire of the National Park Service was consideration, thereby depriving the Park Service of its immunity protection (5, 6, 7, 13, 22).

A few states exclude certain fees from the definition of charge. Texas, Arkansas, and Wisconsin allow landowners to charge a hunting fee equal to the replacement cost of the game and still retain protection.

Type of land. The model act and a majority of state statutes define land very specifically to include "land, roads, water, water courses, buildings, structures, and equipment." Yet confusion exists as to what type of land is covered by the statute. Only Arizona, Colorado, Iowa, Oklahoma, Oregon, South Dakota, and Washington limit coverage to agricultural or similar land. Illinois and Vermont exclude coverage for any land inside city limits. Generally, unless the statute contains a specific limitation, as in the above cases, the statutes apply to all types of land.

A related question concerns the applicability of the statutes to government land, such as parks, forest preserves, and wildlife areas. In 11 states, either by legislation or court interpretation, recreational use liability statutes apply to public agencies. One line of reasoning is that if the statute fails to make a public/private dichotomy the intent was to include all landowners. Thus, persons entering public land are treated as if they were entering private land.

In contrast, statutes can be interpreted in terms of access rather than ownership. Was not the purpose of the statutes to provide public access to private land heretofore unavailable for public use by granting the landowner protection in exchange for use? As such, any deviation from this practice would be unwarranted since the public land was already open to the public.

Recreational purpose. What activities fall within the broad category of outdoor recreation? The model act enumerates many specific activities, but suggests the listing is not exclusive and exhaustive. Thus, if a user is injured while engaged in an activity not expressly listed in the statute, a court reasonably may conclude that the activity fits within the definition and give the landowner liability protection. In the model act a recreational purpose includes but is not limited to "hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports and viewing or enjoying, historical, archaeo-

logical, scenic or scientific sites."

All the states with statutes specifically list recreational activities, except Delaware, Massachusetts, and South Dakota. Listings are based on the model act but have been modified to meet particular recreational activities in that state. For example, snowmobiling is listed by nearly all the northern states.

Unfounded concern

Recreational use liability statutes, in effect in 46 states, provide landowners extensive liability protection when allowing gratuitous recreational use of private land by the public. Landowner apprehension about extensive liability to the recreational user should be unfounded. Yet this apprehension remains a pervasive roadblock to public use of private land.

Land closure data, when compared with the landowner liability statutes, have been ineffective in opening up private land for recreational uses. Perhaps effective landowner education programs are lacking. But if landowners know about these statutes, then legislators, policymakers, planners, and bureaucrats at the federal, state, and local levels must look beyond the liability hurdle for incentives to open private land.

The reality of land closure is best illustrated by today's hunter who returns home with his game bag filled only with memories of past hunts and the most challenging part of his day was finding access to land on which to hunt.

State recreational use statutes

State	Year Passed	Statute Citation	Landowner's Duty of Care	Lands Included: Public	Private	Not Specified
Alabama	1965	Tit.47,§§281'	Model act	X	X	
Alaska						
Arizona	1983	§33-1551	Uncertain			X
Arkansas	1965	§§50-1101	Model act			X
California	1963	Code §846		X	X	
Colorado	1969	§§33-41-101	Modified model act	X	X	
Conn.	1971	§§52-557f	Model act		X	
Delaware	1965	§§1501	Uncertain		X	
Florida	1975	§§375.251	Modified model act		X	
Georgia	1965	§§105-403	Model act			X
Hawaii	1969	§§520-1	Model act			X
Idaho	1976	§§36-1604	Model act			X
Illinois	1965	CH.70 §§31	Model act			X
Indiana	1969	§§14-2-6-3	Uncertain			X
Iowa	1967	§§111C.1	Model act		X	
Kansas	1965	§§58-3201	Model act			X
Kentucky	1968	§§150.645	Model act			X
Louisiana	1975	§§9:2795	Modified model act	X	X	
Maine	1961	Tit.14 §§159-A	Model act			X
Maryland	1973	§§5-1101	Model act			X
Mass.	1972	§§17C	Modified model act			X
Michigan	1953	§§300.201	Modified model act		X	
Minnesota	1961	§§87.01	Model act		X	X
Mississippi						
Missouri	1983	§§537.345	Model act		X	
Montana	1965	§§67-808	Modified model act			X
Nebraska	1965	§§37-1001	Model act			X
Nevada	1971	§§41.520	Model act	X	X	
N. Hamp.	1961	§§212:34	Model act			X
N. Jersey	1968	§§2A:42A-1	Model act		X	
New Mex.	1967	§§17-4-7	Modified model act			X
New York	1956	§§9-103	Model act	X		X
N. Carolina	1963	§§113-120.5	Model act			X
N. Dakota	1965	§§53-08-01	Model act			X
Ohio	1963	§§1533.18	Uncertain	X		
Oklahoma	1965	76 §§10	Model act			X
Oregon	1971	§§105.655	Model act	X	X	
Penn.	1961	Tit.68 §§477-1	Model act		X	
Rhode Is.						
S. Carolina	1968	§§27-3-10	Model act		X	
S. Dakota	1966	§§20-9-5	Modified model act		X	
Tennessee	1963	§§70-7-101	Model act		X	
Texas	1965	Art 1B	Modified model act		X	
Utah						
Vermont	1967	Tit.10 §§5212	Modified model act		X	
Virginia	1964	§§29-130.2	Model act	X		
Wash.	1967	§§4.24.200	Modified model act	X	X	
W. Virginia	1965	§§19-25-1	Model act		X	
Wisconsin	1963	§§29.68	Model act		X	
Wyoming	1967	§§34-19-101	Model act	X		

Copies of the 1965 model act, "Public Recreation on Private Lands: Limitations on Liability," are available from the Council of State Governments.

REFERENCES CITED

1. Birch, T. W., and D. F. Dennis. 1980. *The forest-land owners of Pennsylvania.* Resource Bull. NE-66. For. Serv., U.S. Dept. Agr., Broomall, Penn. 90 pp.
2. Brown, T., and D. W. Thompson. 1976. *Changes in posting and landowner attitudes in New York State, 1963-1973.* New York Fish and Game J. 23: 101-137.
3. Brown, T., D. Decker, J. W. Kelley. 1984. *Access to private lands for hunting in New York: 1968-1980.* Wildl. Soc. Bull. 12: 344-349.
4. Copeland v. Larson, 46 Wisc.2d 337, 174 N.W.2d 745 (Wisc. 1970).
5. Ducey v. United States, 692 F.2d 71 (Calif. 1982).
6. Garfield v. United States, 297 F.Supp. 891 (Wisc. 1969).
7. Graves v. United States, 692 F.2d 71 (Calif. 1982).
8. Guynn, D., and J. Schmidt. 1984. *Managing deer hunters on private lands in Colorado.* Wildl. Soc. Bull. 12: 12-19.
9. Harring v. R. L. Mathis Certified Dairy Co., 225 Ga. 67, 166 S.E.2d 89 (Ga. 1966).
10. Holecek, D. F., and R. D. Westfall. 1977. *Public recreation on private lands—the land owners' perspective* Res. Rpt. No. 335. Mich. Agr. Exp. Sta., East Lansing. 12 pp.
11. Jones v. United States, 693 F.22d 1299 (Wash. 1969), inner tube rental fee not a "charge."
12. Kirby, S. B., K. M. Babcock, S. L. Sheriff, and D. J. Witter. 1981. *Private land and wildlife in Missouri: A study of farm operator values.* In R. F. Dumke, G. V. Burger, and J. R. March [eds.] *Wildlife Management on Private Lands.* Proc., Wildlife Management on Private Lands Symp., Milwaukee, Wisc.
13. Kesner v. Trenton, 216 S.E.2d 880 (W. Va. 1975).
14. Larson, J. S. 1958. *Straight answers about posted land.* Trans. N. Am. Wildl. Nat. Resources Conf. 24: 480-487.
15. Pope, C. A., and H. L. Goodwin. 1983. *Determinants of rural land values in Texas.* Rpt. No. 83-3. Texas Agr. Exp. Sta., College Station.
16. Prosser, W., and W. Keeton. 1984. *Prosser and Keeton on torts.* West Publ. Co., St Paul, Minn. 1,286 pp.
17. Resources for the Future. 1983. *Outdoor recreation for America 1983.* Washington, D.C. 42 pp.
18. Rounds, R. C. 1975. *Public access to private lands for hunting.* Rpt. No. 2. Colorado Division Wildlife, Denver. 179 pp.
19. Smith v. United States, 383 F. Supp. 1076 (Wyo. 1974), vehicular fee not a "charge."
20. Stoddard, C. H., and A. M. Day. 1969. *Private lands for public recreation: Is there a solution?* Trans. N. Am. Wildl. Nat. Resources Conf. 34: 186-196.
21. Stone Mt. Mem'l. Assn. v. Herrington, 225 Ga. 746, 171 S.E.2d 521 (Ga. 1969).
22. Thompson v. United States, 592 F.2d 1104 (Calif. 1979).
23. Waldbauer, E. C. 1966. *Posting on private lands in New York State.* New York Fish and Game J. 13(1): 1-8, 36-45.
24. Wildlife Management Institute. 1983. *Improving access to private land: A path to wildlife.* Washington, D.C. 15 pp.
25. Womach, J., R. A. Christiansen, and R. Gunn. 1975. *An evaluation of the ASCS pilot public access program.* Econ. Res Serv., U.S. Dept. Agr., Washington, D.C. □

Exhibit D

DRAFT- LIABILITY INFORMATION

Liability for injuries sustained by recreational users while on private property concerns many landowners. American law accords landowners preferential liability treatment. The legal maxim "so use your own property as not to unreasonably injure others" conveys the accepted rule. Mere ownership of land and the fact that a visitor was injured on that land does not presume liability for the injury.

This concern is raised by some landowners when the Forest Service negotiates easements across private land to provide access to national forest land. California Civil Code 846, addresses this subject for the State of California. The chart on the reverse side of this paper addresses each state recreational use statute and where pertinent information can be found.

The California Civil Code states the following:

> "An owner of any estate or any other interest in real property, whether possessory or nonpossessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purpose, except as provided in this section.
>
> A "recreational purpose", as used in this section, includes such activities as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, winter sports, and viewing or enjoying historical, archaelogical, scenic, natural, or scientific sites.
>
> An owner of any estate or any other interest in real property, whether possessory or nonpossessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby (a) extend any assurance that the premises are safe for such purpose, or (b) constitute the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owned, or (c) assume responsibility for or incur liability for any injury to person or property caused by any act of such person to whom permission has been granted except as provided in this section.
>
> This section does not limit the liability which otherwise exists (a) for willful or malicious failure to guard or warn against a dangerous conditon, use, structure or activity; or (b) for injury suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose, or (c) to any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner."

For further details on individual State recreational use statutes, please refer to the reverse side of this paper.

State recreational use statutes

State	Year Passed	Statute Citation	Landowner's Duty of Care	Lands Included: Public	Private	Not Specified
Alabama	1965	Tit.47,§§281'	Model act	X	X	
Alaska						
Arizona	1983	§33-1551	Uncertain			X
Arkansas	1965	§§50-1101	Model act			X
California	1963	Code §846		X	X	
Colorado	1969	§§33-41-101	Modified model act	X	X	
Conn.	1971	§§52-557f	Model act		X	
Delaware	1965	§§1501	Uncertain		X	
Florida	1975	§§375.251	Modified model act		X	
Georgia	1965	§§105-403	Model act			X
Hawaii	1969	§§520-1	Model act			X
Idaho	1976	§§36-1604	Model act			X
Illinois	1965	CH.70 §§31	Model act			X
Indiana	1969	§§14-2-6-3	Uncertain			X
Iowa	1967	§§111C.1	Model act		X	
Kansas	1965	§§58-3201	Model act			X
Kentucky	1968	§§150.645	Model act			X
Louisiana	1975	§§9:2795	Modified model act	X	X	
Maine	1961	Tit.14 §§159-A	Model act			X
Maryland	1973	§§5-1101	Model act			X
Mass.	1972	§§17C	Modified model act			X
Michigan	1953	§§300.201	Modified model act		X	
Minnesota	1961	§§87.01	Model act		X	X
Mississippi						
Missouri	1983	§§537.345	Model act		X	
Montana	1965	§§67-808	Modified model act			X
Nebraska	1965	§§37-1001	Model act			X
Nevada	1971	§§41.520	Model act	X	X	
N. Hamp.	1961	§§212:34	Model act			X
N. Jersey	1968	§§2A:42A-1	Model act		X	
New Mex.	1967	§§17-4-7	Modified model act			X
New York	1956	§§9-103	Model act	X		X
N. Carolina	1963	§§113-120.5	Model act			X
N. Dakota	1965	§§53-08-01	Model act			X
Ohio	1963	§§1533.18	Uncertain	X		
Oklahoma	1965	76 §§10	Model act			X
Oregon	1971	§§105.655	Model act	X	X	
Penn.	1961	Tit.68 §§477-1	Model act		X	
Rhode Is.						
S. Carolina	1968	§§27-3-10	Model act		X	
S. Dakota	1966	§§20-9-5	Modified model act		X	
Tennessee	1963	§§70-7-101	Model act		X	
Texas	1965	Art 1B	Modified model act		X	
Utah						
Vermont	1967	Tit.10 §§5212	Modified model act		X	
Virginia	1964	§§29-130.2	Model act	X		
Wash.	1967	§§4.24.200	Modified model act	X	X	
W. Virginia	1965	§§19-25-1	Model act		X	
Wisconsin	1963	§§29.68	Model act		X	
Wyoming	1967	§§34-19-101	Model act	X		

Copies of the 1965 model act, "Public Recreation on Private Lands: Limitations on Liability," are available from the Council of State Governments.

Table taken from "Recreational access to private land: Beyond the liability hurdle", By Ronald Kaiser & Brett Wright, November, 1985.

STANISLAUS NATIONAL FOREST (R-5)

RECREATION ROAD RIGHT-OF-WAY PLAN 3/1/90

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASEMENTS	DEED CONSIDERATIONS	ROS	AC OF NF LAND NOT ACCESSIBLE	REMARKS
54-R-1	Ashlock, Betty E. A.P. No. 66-220-13 Road No. 1S06 T.1S.,R.17E. Sec. 20, N1/2NE1/4, S1/2N1/2NW1/4		R/W needed to provide access to parking area and access to the Humbug Trail leading to Tuolumne Wild and Scenic River.		.2	1	$500	RN	1500 acres	Survey done. Fishing, rafting, & dispersed camping.
54-R-2	Erickson, Tim A.P. No. 66-25-01 Road No. 1N10 T.1S.,R.17E., Sec. 28, SWNW		Short stretch of R/W needed for main access to Lumsden Bridge on Tuolumne River.		.1	1	$100	RN	2000 acres	Survey needed. Rafting, camping, & fishing.
51-R-3	Rand Claussen A.P. No. 23-06-35 Road No. 4N01 T.4N.,R.16E.,Sec.29 NESE		R/W needed for vehicle recreation access, in addition to road access to Trail No. 16E05 which provides trail access to Stanislaus River.		.1	1	$500	RN	640 acres for R-3, R-4, and R-5.	Survey needed. Hiking,fishing & dispersed camping.
51-R-4	Winston & Mary Sharon A.P. No. 23-06-53 Road No. 4N01 T.4N.,R.16E., Sec. 29, NESE		R/W needed for vehicle recreation access, in addition to road access to Trail No. 16E05 which provides trail access to Stanislaus River.		.1	1	$500	RN		Survey needed. Hiking,dispersed camping & recreation driving on Rd. No. 4N01.
51-R-5	Timothy & Joyce Shelnutt A.P. No. 23-06-54 Road No. 4N01 T.4N.,R.16E., Sec. 29, NESE		R/W needed for vehicle recreation access, in addition to road access to Trail No. 16E05 which provides trail access to Stanislaus River.		.1	1	$500	RN		Survey needed.

Exhibit E

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASEMENTS	DEED CONSIDERATIONS	ROS	AC OF NF LAND NOT ACCESSIBLE	REMARKS
52-R-6	Pacific Gas & Electric A.P. No. 30-014-06 Road No. 4N03 (Candy Rock Road) T.4N.,R.15E.,Sec.18, N1/2SE1/4.		Existing road would provide access to Stanislaus River (Low elevation river access) Dispersed recreation, hiking, day use.		.1	1	$500	RN	1500 acres for all of R-6 thru R-12	Survey done. Public used Road 4N03 for many years. CCC's built road in 30's but did not acquire easement.
52-R-7	Harold Ladwig A.P. No. 30-010-04 Road No. 4N03 (Candy Rock Road) T.4N.,R.15E.,Sec.18, S1/2SE1/4		Same as R-6		.1	1	$500	RN		
52-R-8	Steven Siebert A.P. No. 30-010-44 Road No. 4N03 (Candy Rock Road) T.4N.,R.15E.,Sec.18, S1/2SE1/4		Same as R-6		.1	1	$500	RN		
52-R-9	Della M. Stout A.P. No. 30-010-02 Road No. 4N03 (Candy Rock Road) T.4N.,R.15E., Sec. 18, S1/2SE1/4		Same as R-6.		.1	1	$500	RN		
52-R-10	Bob Kelso A.P. No. 30-010-11 Road No. 4N03 (Candy Rock Road) T.4N.,R.15E.,Sec. 19,		Same as R-6		.5	1	$1000	RN		

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASE-MENTS	DEED CON-SIDER ATIONS	ROS	AC OF NF LAND NOT ACCESS-IBLE	REMARKS
52-R-11	Marlin Hittle A.P. No. 30-010-37 Road No. 4N03 (Candy Rock Road) T.4N.,R.15E.,Sec.18, SE1/4		Same as R-6		1	1	$500	RN		
52-R-12	Richard Krieger A.P. No. 30-010-12 Road No. 4N03 (Candy Rock Road) T.4N.,R.15E., Sec. 20 NW1/4		Same as R-6		.5	1	$1000	RN		
52-R-13	Georgia Pacific Corp. A.P. No. 16-03-07 Road No 5N16 (Boards Crossing Road) T.5N.,R.16E., Sec. 8, NE1/4		Access to dispersed F.S. campground. Current easement does not include public.		.5	1	$500	RN	640 acres for R-13 and R-14	Calaveras District has proposed this parcel for acquisition in a land exchange with Georgia Pacific.
52-R-14	Nichol Smith A.P. No. 16-03-14 Road No. 5N076, (Boards Crossing Road). T.5N.,R.16E.,Sec.8,SENW		Access to dispersed F.S campground. Current easement does not include public.		.1	1	$300	RN		Survey needed.

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASEMENTS	DEED CONSIDERATIONS	ROS	AC OF NF LAND NOT ACCESSIBLE	REMARKS
52-R-15	Georgia Pacific Corp. Road No. 6N10 T.6N.,R.16E., A.P. No. 06-017-01 Sec. 30, N1/2NE1/4 A.P. No. 06-01-02 Sec. 20, NWSW A.P.No.06-01-08 Sec. 21, SW1/4		OHV route on preferred alternative in proposed Forest Off-Highway Vehicle Plan (OHV). Currently Forest has cost share limited easement which does not include public.		.1	1	Cost Share Supplement	RN	640 Acres	Cost Share Easement. Fishing, hunting and dispersed camping.
52-R-16	Georgia Pacific Corp. Road No. 7N23, (Black Springs Road) A.P. No. 06-006-02 T.6N.,R.16E., Sec. 10, E1/2NW1/4		Portion of Road 7N23 is part of proposed North-South route of proposed Forest OHV Plan. Also provides access to large block of N.F. land.		.1	1	Cost Share Supplement	RN	640 acres	Cost Share Easement. Acres of N.F. land not accessible are reflected in 52-R-18
52-R-17	Georgia Pacific Corp. Road No. 7N47 T.7N.,R.16E., A.P. No. 02-011-04 Sec. 31, N1/2SW1/4 A.P. No. 02-011-06 Sec. 32, S1/2S1/2 Sec.33, S1/2SW1/4		Forest currently has a cost share limited easement which does not include public access. Portion of Road 7N47 is needed as OHV route and road also accesses many acres of N.F. lands.		1.5	1	Cost Share Supplement	RN	2600 acres	Cost Share Easement. Fishing, hunting, & dispersed camping.

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASE-MENTS	DEED CON-SIDER ATIONS	ROS	AC OF NF LAND NOT ACCESS-IBLE	REMARKS
52-R-18	USA Land(Forest Service) Road No. 7N23 (Black Springs Road) T.6N.,R.16E., Sec. 2, W1/2 Sec. 3, NENENE T.7N.,R.16E., Sec. 33, SE1/4 Sec. 34, S1/2 Sec. 35, W1/2SW1/4		Forest Service granted American Forest Products Co.(now Georgia Pacific) a cost share limited USDA easement across forest lands (public not included). Public access is needed for dispersed recreation in addition to a section of this road being used for OHV.		3	1	Cost Share Supplement	RN	1500 acres	Cost Share Easement. Fishing, hiking, & hunting.
52-R-19	USA Land(Forest Service) ROAD NO. 7N09 T.7N.,R.16E., Sec. 32, NE1/4 Sec. 33, N1/2N1/2 Sec. 34, N1/2 Sec. 35, N1/2		Forest Service granted American Forest Products Co.(now Georgia Pacific) a cost share limited USDA easement across forest lands (public not included). Public access is needed for dispersed recreation in addition to a section of this road being used for OHV.		4	1	Cost Share Supplement	RN	640 acres	Cost Share Easement. Fishing, hiking & hunting.
52-R-20	Georgia Pacific Corp. Road No. 7N09 T.7N.,R.16E., A.P. No. 02-012-03 Sec. 26, S1/2SW1/4 Sec. 27, W1/2NW1/4		Forest Service currently has a limited easementmt which does not include public access. Road in Section 26 needed for proposed OHV Route. Portion of road in Section 27 will be used for dispersed recreation type		.5	1	Cost Share Supplement	RN		Cost Share Easement. N.F. acres accessed by other roads. Fishing, hiking, & hunting.

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASEMENTS	DEED CONSIDERATIONS	ROS	AC OF NF LAND NOT ACCESSIBLE	REMARKS
52-R-21	USA Land(Forest Service) Road No. 7N09,7N28 T.7N.,R.16E., Sec. 15, N1/2,SW1/4 Sec. 17, N1/2 Sec. 18, N1/2 Sec. 22, NW1/4 Sec. 29, N1/2S1/2 T.7N.,R.15E., Sec. 13, N1/2,SW1/4 Sec. 15, NE1/4NW1/4		Forest Service granted American Forest Products Co. and its predecessors (now Georgia Pacific) a limited cost share easement across forest lands. Public access is needed for dispersed recreation access to Moore Creek Campground, and use as a portion of the proposed North-South OHV Route.		5	1	Cost Share Supplement	RN	4000 acres	Cost Share Easement. Camping, hiking, fishing, OHV, and hunting.
52-R-22	USA Land Road No. 7N05, 7N57 T.7N.,R.16E., Sec. 13, NW1/4 Sec. 14, E1/2, E1/2SW1/4 Sec. 23, SENE,NWNW,NESE		Forest Service granted American Forest Products Co. and its predecessors (now Georgia Pacific) a limited cost share easement across forest lands. Public access is needed for dispersed recreation and for use as a proposed OHV Route.		3	1	Cost Share Supplement	RN	1200 acres	Cost Share Easement. Camping, hiking, fishing, OHV, and hunting.
52-R-23	Georgia Pacific Corp. Road No. 7N57 T,7N.,R.16E., A.P. No. 02-009-02 Sec. 14, NWSWSE Sec. 23, SENW,W1/2NE1/4		Forest Service currently has no easement. Public access is needed for a proposed OHV route.		.5	1	Cost Share Supplement	RN		Cost Share Easement. Acres accessible via other route, but this route would provide a OHV loop.

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASEMENTS	DEED CONSIDERATIONS	ROS	AC OF NF LAND NOT ACCESSIBLE	REMARKS
52-R-24	Georgia Pacific Corp. Road No. 7N50 T.7N.,R.16E., A.P. No. 02---9-02 Sec. 23, SESWSW A.P. No. 02-012-03 Sec. 26, NENW		Forest Service currently has an unlimited easement (public included). Route needs to be rerouted to cross stream at a better location. Need to amend easement. Route used for proposed OHV Route.		.5	1	Cost Share Supplement	RN		Survey work needed. Cost Share Easement Current route provides access to N.F. acres.
52-R-25	Orrin Airola Road No. 7N11 A.P. No. 02-003-01 T.7N.,R.17E., Sec. 9, E1/2SE1/4 A.P. No. 02-007-01 Sec. 15, NWNW A.P. No. 02-008-03 Sec. 16, NENENE		Forest Service currently has no easement. Existing Road 7N11 is a proposed OHV route.		1	1	$500	RN		N.F. acres accessed by another road. This proposed road would provide an ideal OHV loop. Survey needed. Hunting, biking,& dispersed camping.
52-R-26	Orrin Airola Road No. 7N11A A.P. No. 02-006-01 T.7N.,R.17E., Sec. 3, SESW		Forest currently has no easement. Existing Road 7N11A is part of the proposed North-South route.		.1	1	$500	RN		N.F. acres accessed by another road. This proposed route would provide linkage to proposed North-South OHV route.

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASEMENTS	DEED CONSIDERATIONS	ROS	AC OF NF LAND NOT ACCESSIBLE	REMARKS
53-R-27 ****	Pacific Gas & Electric Road No. 6N01 A.P. No. 21-020-02 T.5N.,R.20E., Sec. 2, SWNW, E1/2SW1/4	12/90	Forest Service currently has no easement. Road provides access to Kennedy Meadows Pack Station and Kennedy Meadows Trail.		.5	1	Reciprocal R/W's	RN		National Forest acreage not legally accessible is reflected in Trail R/W Plan (53-T-9).
ROAD	TOTALS				23.4	27	$8400+		17,500 acres	

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASE-MENTS	DEED CON-SIDER ATIONS	ROS	AC OF NF LAND NOT ACCESS-IBLE	REMARKS
54-T-28	Linkletter, Jack A.P. No. 05-07-02 & 03 T.2S.,R.18E. Sec. 19, W1/2W1/2		Existing trails are used for access to No. Fork Merced River parcel. Camping and hiking.		.5	1	$1000	RN	2000 acres	Parcel may possibly be acquired in Bower Cave Land Exchange.
54-T-29	Humbug Trail Trail No. 16E12 T.1S.R.16E., Sec. 2,N1/2		Existing trail provides access to Tuolumne River and crosses a number of private properties.		.5	UNK		SPNM		Access via other trails already provided. No public road access to trail. May be low priority.
54-T-30	Terri Masterson Mary Ellen Trail Trail No. 16E13 A.P. No. 62-33-02 T.1N.,R.16E., Sec. 32, S1/2		Access to trail via public road through Crook ranch. Existing trail crosses over patented mining claim.		.1	1	$800	SPNM	1300 acres	Hiking, fishing, and dispersed recreation.
53-T-31	Group of Strawberry properties-Trail 18E37 T.4N.,R.18E.,Sec.20,SWNE		Existing Sugarpine RR grade.		.1	UNK	UNK	RN		May need to provide parking and staging area off Old Strawberry Road. Survey needed.
53-T-32	Pinecrest Lake to Strawberry-Group of parcels Trail No. 18E12 T.4N.,R.18E., Sec. 16, W1/2SE1/4		Existing trail crosses federal and private lands.		.1	UNK	UNK	RN	Access available from Pinecrest Lake	Pinecrest Lake is a heavily used recreation area. Good day hiking. Survey needed.

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASE-MENTS	DEED CON-SIDER ATIONS	ROS	AC OF NF LAND NOT ACCESS-IBLE	REMARKS
53-T-33	Boy Scouts of America Trail in Strawberry Trail No. 18E30 T.4N.,R.18E.,Sec.20 NENE		Existing trail crosses private land.		.1	UNK	UNK	RN	Other access avail-able	Residential area. Survey needed. Hiking use.
51-T-34	Pacific Gas & Electric A.P. No. 23-09-05 Trail No. 18E35 T.4N.,R.17E.,Sec.21,NWSE		Existing Trail along Stanislaus River.		.1	1	$200	RN	640 acres	If road access is needed, rights-of-way are needed. Hiking and fishing.
53-T-35	Semich, Betty Trail No. 18E37 A.P. No. 24-060-07 T.4N.,R.,18E. Sec. 30, NWNE		Existing Sugarpine RR grade. Proposed hiking/ biking trail.		.01	1	$100	RN	Total of 2000 acres for trail 18E37.	Phase 1 of bike trail development.
53-T-36 **	Pacific Gas & Electric Trail No. 6N01.2 A.P. No. 21-020-02 T.5N.,R.20E., Sec. 2, SENW, E1/2SW1/4, SWSE Sec. 11, NWNE	12/90	Existing trail from Kennedy Meadows that leads to Emigrant wilderness.		1	1		RN	2000 acres	Survey completed. Road reciprocal easement will be exchanged. Hiking & camping. Trail leads to P & SPNM areas.
51-T-37 **	Pacific Gas & Electric Trail No. 18E37 A.P. No.23-16-06,11,12 T.3N.,R.17E.,Sec.5,7,8	1/91	Existing Old Sugarpine Railroad Grade that is proposed as a hiking/ biking trail.		1	1	$500	RN		Phase 1 of bike trail development

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASEMENTS	DEED CONSIDERATIONS	ROS	AC OF NF LAND NOT ACCESSIBLE	REMARKS
51-T-38 **	Fibreboard Corporation Trail No. 18E37 A.P. NO.28-04-14,16,06 T.3N.,R.16E.,Sec.24,E1/2 T.3N.,R.17E.,Sec.18,W1/2	1/91	Existing Old Sugarpine Railroad Grade that is proposed as a hiking/ biking trail.		.1	1	$500	RN		Phase 1 of bike trail development.
51-T-39	Fibreboard Corporation Trail No. 18E37 A.P.Nos 47-01-01, 28-05-14,16,24,25,27 T.3N.,R.16E.,Sec.25,SWNW Sec. 26, S1/2 Sec. 34, SE1/4		Existing Old Sugarpine Railroad Grade that is proposed as a hiking/ biking trail.		2.5	1	$500	RN		Phase 2 of bike trail development.
51-T-40	Henry & Pauline Beltran Trail No. 18E37 A.P. No. 41-150-07 T.2N.,R.16E.,Sec.4,NE1/4		Existing Old Sugarpine Railroad Grade that is proposed as a hiking/ biking trail.		.1	1	$200	RN		Phase 2 of bike trail development.
51-T-41	Edward King Trail No. 18E37 A.P. No. 41-150-06 T.2N.,R.26E.,Sec.4,NE1/4		Existing Old Sugarpine Railroad Grade that is Proposed as a hiking/ biking trail.		.1	1	$200	RN		Phase 2 of bike trail development.
52-T-42	Pease, Marion D. Trail No. 15E06 A.P. No. 30-002-04 T.4N.,R.15E., Sec. 19, SWSW		Rattlesnake Trail access to Stanislaus River. Either R/W No. 52-T-15 or 52-T-16 is needed for hiking access from F.S. Crescent Cove Wayside area.		.5	1		SPNM	640 acres	Survey needed. Hiking, fishing, and dispersed recreation.

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASEMENTS	DEED CONSIDERATIONS	ROS	AC OF NF LAND NOT ACCESSIBLE	REMARKS
52-T-43	Karr, James Server, Trustee, etal Trail No. 15E06 A.P. No. 30-002-03 T.4N.,R.15E., Sec. 19, S1/2S1/2		Rattlesnake Trail access to Stanislaus River. Either R/W No. 52-T-15 or 52-T-16 is needed for hiking access from F.S. Crescent Cove Wayside Area to Stanislaus River.		.5	1		SPNM		Survey needed. Hiking, fishing, and dispersed recreation.
52-T-44	Carroll Dow A.P. No. 16-19-07 Trail No. 17E04.1 T.6N.,R.17E., Sec. 14, SENW		Little Pather Hiking Trail		.1	1	$300	RN	640 acres	Survey needed. Hiking and dispersed recreation.
52-T-45	Numerous owners along utility corridor of Highway 4. (May be 10-20 property owners involved).		Pacific Bell Telephone Company powerline easement. Possible partnership may be formed with Pac Bell in late '90, and an 18 mile bike trail may be developed.		18	UNK		RN		Survey may be needed R/W's may be needed for use as a hiking/biking trail.
52-T-46	Bear Valley Alpine City Unification School District A.P. No. 05-01-06 Trail No. 18E18 T.7N.,R.18E.,Sec 18,S1/2		Existing trail		.1	1	$300	RN	Total of 1300 acres for Trail 18E18	Survey needed. Hiking and dispersed recreation.

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASEMENTS	DEED CONSIDERATIONS	ROS	AC OF NF LAND NOT ACCESSIBLE	REMARKS
52-T-47	Bear Valley Lloyd Bridges Tennis Club and Condominium A.P. No. 05-01-07 Trail No. 18E18 T.7N.,R.18E.,Sec.18,S1/2		Existing trail		.1	1	$300	RN		Survey needed.
52-T-48	Bear Valley Bruce Orvis, etal. A.P. No. 05-01-09 Trail No. 18E18 T.7N.,R.18E.,Sec.18,S1/2		Existing Trail		.1	1	$300	RN		Survey Needed.
52-T-49	Bear Valley Bear Valley Water District A.P. No. 05-01-011 Trail No. 18E18 T.7N.,R.18E.,Sec.18,S1/2		Existing Trail		.1	1	$300	RN		Survey needed.
52-T-50	John Meniktas Sherman Acres Trail A.P. No. 02-007-10 T.7N.,R.17E., Sec.23, NESW		Existing trail. Currently Forest has no easement. District would like to develop and use as a hiking trail.		.1	1	$500	RN	640 acres	
	TRAIL TOTALS				25+	15+	$5350+		11,160ac	
	TOTAL FOR ROAD & TRAIL 50 CASES				38+	42+	$14000		28,660	

CASE NO.	GRANTOR-RD NAME & NO.	DATE NEEDED MO/YR	PROJECT NAME RL-RAW LAND ER-EXISTING ROAD	LENGTH MILES RL	LENGTH MILES ER	NO. OF EASE-MENTS	DEED CON-SIDER ATIONS	ROS	AC OF NF LAND NOT ACCESS-IBLE	REMARKS
	CASE NUMBER ABBREVIATION 54-GROVELAND 53-SUMMIT 52-CALAVERAS 51-MI-WOK		R-ROAD T-TRAIL 1-50 CASE NUMBERS							**-R/W'S INCLUDED IN FY'90 R/W PLAN
	ROS CLASSES Urban (U) Rural (R) Roaded Natural (RN) Semi-primitive Motorized (SPM) Semi-primitive Non-motorized (SPNM) Primitive (P)									

Exhibit F

VICINITY MAP

KEY MAP

INDEX TO U.S. FOREST SERVICE PRIMARY BASE SERIES QUADRANGLES

STANISLAUS NATIONAL FOREST
RECREATION ROAD AND TRAIL RIGHT-OF-WAY PLAN

T-28 Trail R/W (Case No. listed on Recreation R/W Plan)

R-1 Road R/W (Case No. listed on Recreation R/W Plan)

3/90 J.Montoya

Exhibit F

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
R. MAX PETERSON, CHIEF

STANISLAUS NATIONAL FOREST
CALIFORNIA
MT. DIABLO MERIDIAN
1984

Scale 1:126,720

1 ½ 0 1 2 3 4 5 Miles

1 ½ 0 1 2 3 4 5 Kilometers

LEGEND

- National Forest Boundary
- Adjacent Forest Boundary
- Administrative Forest Boundary
- Wilderness or Primitive Area Boundary
- Game Refuge Boundary
- 120 State Highway
- 49 County Route
- 5N39 Forest Route
- Primary Highway
- Secondary Highway
- Improved Light Duty
- Unimproved Dirt
- Private Road, Public Use Restricted
- National Scenic Trail
- 4WD Four Wheel Drive Trail
- Trail
- Railroad
- Locked Gate, All-Year Closure
- Locked Gate, Seasonal Closure
- Stanislaus National Forest Land
- Adjacent National Forest Land
- National Park and other Land
- State Land
- Bureau of Land Management
- Power Transmission Line
- Wild And Scenic River Area
- Fire Station
- Day Use Recreation Site Forest Service
- Recreation Site
- Recreation Site, other than Forest Service
- Pack Station
- Boat Launching Ramp
- Scenic Viewpoint
- Ski Area
- Trailhead Parking
- Public Telephone
- Resort
- Forest Supervisor Office Sonora, Calif.
- District Ranger Office
- Other Forest Service Facility
- Permanent Lookout Station
- Horizontal Control Station
- Mine, Quarry or Gravel Pit
- Water Tank
- Spring
- Located or Landmark Object
- House, Cabin or other Building

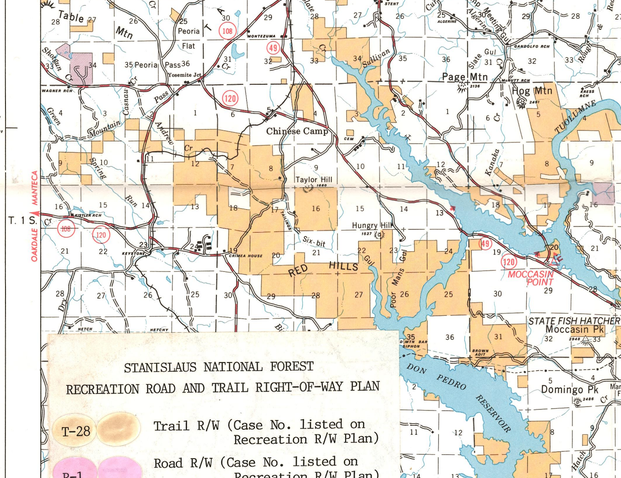
TOWNSHIP AND SECTION LINE CLASSIFICATION

- Surveyed, location reliable
- Surveyed, location approximate

FOREST SERVICE MAP
Compiled and drafted in the Regional Office, San Francisco, California 1977. Revisions and additions from 1978 Primary Base Series quadrangles by the USDA Forest Service Geometronics Service Center and review by the Pacific Southwest Region, 1984

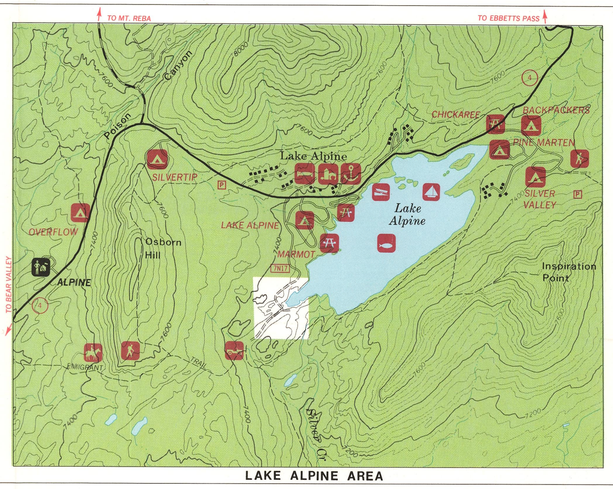
Polyconic Projection, 1927 North American datum

Longitude west from Greenwich



PINECREST AREA

Recreation sites with facilities for camping or picnicking. Other facilities & activities within one mile as noted	MAP LOCATION	ELEVATION	CAMP UNITS	PICNIC UNITS	TRAILER SPACE	DRINKING WATER	TOILETS V-VAULT F-FLUSH	BOAT LAUNCHING	SWIMMING	FISHING	RV DUMP STATION
Baker	C-7	6200	44		•	•	V			•	
Beardsley Point	D-5	3400		25		•	F	•	•	•	
Big Meadow	B-5	6500	68		•	•	V				
Big Meadow Group	B-5	6500	1GP	4		•	V				
Bloomfield	A-7	8000	10		•		V			•	
Boards Crossing	C-4	3800	5			•	V			•	
Boulder Flat	C-7	5600	23		•		V			•	
Brightman Flat	C-7	5600	30		•		V			•	
Carlon	G-7	4600	16			•	V			•	
Cascade Creek	C-6	6000	7		•		V				
Cherry Valley	F-6	4700	46		•	•	V	•	•	•	
Chickaree	B-6	7400		12		•	F	•	•	•	
Chipmunk Flat	C-8	8400	2				V			•	
Clark Fork	B-7	6200	88		•	•	V/F			•	•
Clark Fork Horse Camp	B-7	6200	14		•		V			•	•
Cottage Springs	C-4	5800		12		•	V				
Crescent Cove	D-3	3100		6		•	V				
Dardanelle	C-7	5600	32		•	•	V			•	
Deadman	C-7	6200	17		•	•	V			•	
Donnell Vista	C-6	6700		7			V				
Douglas Station	C-7	6000		7			V			•	
Eureka Valley	C-7	6000	26		•	•	V			•	
Fench Creek	C-7	5600	8		•		V			•	
Fraser Flat	D-5	4800	38		•	•	V			•	
Hermit Valley	A-6	7500	6		•		V			•	
Herring Creek Reservoir	C-6	7400	6		•		V			•	
Highland Lakes	B-7	8600	10		•		V			•	
Hull Creek	E-5	5600	11		•	•	V			•	
Lake Alpine	B-5	7400	27	10	•	•	F	•	•	•	
Lake Alpine Backpack	B-6	7400	5				V			•	
Lost Claim	G-5	3100	10			•	V				
Lumsden	G-5	1500	10				V			•	
Lumsden Bridge	G-5	1500	8				V			•	
Marmot	B-5	7400		16		•	F	•	•	•	
Meadowview	D-5	5600	100		•	•	F	•	•	•	•
Middlefork	G-7	4400	25			•	V			•	
Mill Creek	C-6	6200	12			•	V			•	
Moore Creek Group	G-5	2800	1GP				V				
Mosquito Lakes	A-6	8000		8			V			•	
Niagara Creek	C-6	6600	5		•		V			•	
Pacific Valley	A-6	7600	6		•		V			•	
Pigeon Flat Walk-In	C-7	6000	6				V			•	
Pinecrest	D-6	5600	200	50	•	•	F	•	•	•	•
Pine Marten	B-6	7400	33		•	•	F	•	•	•	
Pioneer Trail Group	D-6	5700	3GP			•	V				
Rainbow Pool	G-5	2700		4			V			•	
Riverside	F-4	2500		7		•	V			•	
Sand Flat	B-7	6200	48		•	•	V			•	•
Sand Flat	B-5	5800	4				V			•	
Silvertip	B-5	7500	23			•	F	•	•	•	
Silver Valley	B-6	7500	25			•	F	•	•	•	
Sourgrass	C-4	4000	6			•	V			•	
South Fork	G-5	1500	5				V			•	
Stanislaus River	B-5	5900	5		•		V			•	
Sweetwater	G-5	3000	13			•	V				
The Pines	G-5	3200	5			•	V				
The Pines Group	G-5	3200	2GP			•	V				



LAKE ALPINE AREA